

**ADVOCATING FOR AMERICAN JACOB
OSTREICHER'S FREEDOM AFTER TWO YEARS
IN BOLIVIAN DETENTION**

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS

OF THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED THIRTEENTH CONGRESS

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YEARS IN BOLIVIAN DETENTION**

MONDAY, MAY 20, 2013

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 3:05 p.m., in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The committee will come to order, and thank you all for coming to this very important hearing to press for the immediate freedom and repatriation of Mr. Jacob Ostreicher, a U.S. citizen from Brooklyn, New York who has been detained in Bolivia for 718 days. I especially want to thank and welcome to our committee our distinguished witness, Mr. Sean Penn, for taking time out of a very busy schedule to testify before the subcommittee today. Thank you for being here and for your leadership.

This human rights panel, in the 112th Congress, held two congressional hearings on Mr. Ostreicher's case, one in June and the second in August 2012. The witnesses included Mr. Ostreicher's wife Miriam Ungar, his daughter Chaya Weinberger, Steve Moore, a retired FBI agent who investigated Mr. Ostreicher's case on a pro bono basis, all three of whom are in the audience today, and Mr. Ostreicher's two Bolivian attorneys Mr. Yimy Montano and Mr. Jerjes Justiniano, who are not only ordinarily effective and competent defense lawyers, but very brave as well.

The record, including their testimonies, established that Mr. Ostreicher is innocent, and is the victim of an elaborate, high level government extortion ring that has fleeced approximately \$27 million of assets from the rice operation that he had been managing.

It is time that Jacob came home to his wife and his family and his friends. Basic justice and humanitarianism—Jacob is after all very ill—adds to the urgency that he be free.

In one sense, a lot has happened since the hearing last August. Tragically Mr. Ostreicher has developed the symptoms of Parkinson's disease, likely due to the sustained severe stress to which he has been subjected.

Immediately following a meeting that I had with Bolivian officials in La Paz last June, including Carlos Romero, the Minister

of Government, Bolivia started to investigate whether Mr. Ostreicher was the victim of extortion. A total of 27 prosecutors, judges, and officials responsible for confiscated goods who were involved in Mr. Ostreicher's case have now had charges made against them. Currently 13 of them are in Palmasola prison, nine are under house arrest, and five are fugitives.

One of those in prison, Fernando Rivera, is a Ministry of Government adviser who I personally witnessed threaten the judge presiding at one Mr. Ostreicher's hearings in a Santa Cruz courtroom. Mr. Rivera recently apologized to Mr. Ostreicher during a bail hearing, claiming that he was only following the orders of then Minister of Government Llorenti. In one of the many bizarre twists of this story, Mr. Llorenti is now the Bolivian representative to the United Nations, living in New York just a few miles away from Mr. Ostreicher's home.

I traveled for a second time to Bolivia in early December, this time with Congresswoman Nydia Velázquez, to visit Mr. Ostreicher and again press Bolivian officials to either produce the evidence that he had committed a crime or free him. High level officials assured us that Mr. Ostreicher's case would proceed fairly and expeditiously now that the extortion network had been exposed. Some officials even admitted to us privately that they believed Mr. Ostreicher was innocent.

Mr. Penn became involved in the case in October and was instrumental in obtaining desperately needed medical care for Mr. Ostreicher and for helping to secure his release from the infamous Palmasola prison to house arrest which occurred on December 18th. With Mr. Penn's personal intervention with President Morales and with Mr. Penn in the courtroom, all of us had hoped that Jacob would at long last be released and vindicated at a hearing in December. Inexplicably, that didn't happen.

The State Department references Mr. Ostreicher's case in its 2012 Country Report on Human Rights and Practices for Bolivia, and notes the arrest of government officials and the stolen assets as part of its section on arbitrary arrests or detention.

In another sense, the most important aspects of the case have not changed. Mr. Ostreicher is still in the custody of the Government of Bolivia. On June 4th, it will be 2 years since he was first imprisoned. Bolivian officials are employing delay tactics and giving excuses for his continued detention, and we have heard those before. No evidence whatsoever has been presented to indicate that Mr. Ostreicher is guilty of any crime, and there is no sign of the \$27 million of assets from his rice operation that were confiscated. Perhaps this last fact is the real reason why Mr. Ostreicher is still not home with his family in the United States.

Recently, there have been reports from credible sources that there is another security threat to Mr. Ostreicher's safety. These followed the sudden removal of Bolivian security officers from the perimeter of Mr. Ostreicher's residence the day after Mr. Rivera implicated the current Bolivian representative to the U.N. in the extortion case. As long as Mr. Ostreicher is forced to remain in Bolivia the government is responsible for and must take all necessary measures to ensure his safety.

As a result of the continued injustice in Mr. Ostreicher's case and also in response to the growing number of cases of Americans living detained abroad in violation of their human and due process rights, I, together with Representative Velázquez have reintroduced the Justice for Imprisoned Americans Overseas Act, or Jacob's Law. H.R. 1778 would deny visas to foreign government officials responsible for violating the human rights or due process rights of an American in their custody. The travel ban would also apply to the officials' immediate family members.

It is wrong for our Government to give foreign officials and their families the privilege—and it is a privilege, not a right—to visit and study in the United States while those same officials are wrongfully detaining an American abroad. I would note parenthetically that I wrote a law in 2004 for the Belarus Democracy Act, which does the exact same thing toward the Lukashenka regime in Minsk.

While this bill works its way through the legislative process, our committee will continue to pursue every means possible to secure Mr. Ostreicher's safe return to his wife, children and 11 grandchildren. And that is why we are holding this hearing today.

President Morales is flying, as we all know, to Atlanta today for a meeting with former President Jimmy Carter to ask for his assistance in negotiating land access through Chile to the Pacific Ocean. We have been assured that the President, former President of the United States will raise the issue. I contacted the Carter Center earlier today and I was told that it was on the agenda. And I am very, very encouraged by that.

It is a very high privilege though to have Mr. Penn with us here today, not only because of his fame that he has rightly earned and garnered through his Academy Award winning acting, and not only because of his highly commendable assistance he is bringing to the suffering people in Haiti through the relief organization that he founded, but also because of the extraordinary assistance that he has provided to Mr. Ostreicher, who he had never met until he met him in Bolivia. That assistance now includes joining us today, but it is part of a long series of interventions that Mr. Penn has expended on behalf of Jacob Ostreicher.

I would like to now yield to my friend and colleague, Ms. Bass, for any opening comments.

Ms. BASS. Thank you very much. Chairman Smith, I want to thank you for your leadership of this committee, and you continued efforts to elevate human issues that require greater attention by Congress and our Government. This hearing certainly fits the bill regarding the incarceration of Jacob Ostreicher, a U.S. citizen who for over 2 years has endured a nightmare that is both unfair and unjust. And I am sorry to say that we are here having this hearing again over so much time.

A year ago this committee learned of Mr. Ostreicher's case and held a hearing to elevate the deplorable injustice that he continues to endure in Bolivia. His wife, daughter, and members of his community sat in this very room and earnestly pleaded for justice and his safe and immediate release. His return to the United States would put an end to the traumatic events that have consumed him and his family for far too long. His return would also bring some

sense of normalcy in their lives. This is not too much to ask or demand.

I want to thank Mr. Penn for his willingness to travel here and to take action on this issue. I watched the press conference with you and Mr. Ostreicher, and your message was clear. Jacob's human rights have been grossly violated, those within the Bolivia justice system and those on the fringe have been deeply involved in repeated cycles of abuse, justice, human rights violation, the infringement of one's civil liberties, all of which have gravely impacted him, his family and, I would argue, the Bolivian people themselves.

We define justice as the pursuit of fairness and a sense of reason. This situation boasts neither fairness or any basic understanding of reason. I urge the Bolivian Government to either put forward unequivocal evidence of any crime that he has committed or immediately release him to the U.S. and his family.

As far as I am aware his assets have been stolen, his business lies in ruin, and he now shows the symptoms of Parkinson's disease, which was visible on the video that I saw when you had the press conference with him. How much more can one person or family endure?

I am please that my colleagues, Representative Nadler and Representative Velázquez, are here to show their support and strong commitment. Senators Schumer and Gillibrand have also shown their unwavering commitment to getting him home. They should be commended. There is clear bipartisan and bicameral support for Jacob's release. As I said in my testimony a year ago, Jacob is not forgotten in the U.S. Congress and we continue to seek an immediate and final end to this terrible situation.

Thank you, and I look forward to today's hearing.

Mr. SMITH. Thank you, Ms. Bass.

Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Chairman Smith, Ranking Member Bass, and members of subcommittee, for holding this important hearing and allowing me to participate.

As many of you know, Jacob Ostreicher is an American citizen from Brooklyn, New York. He is currently being held by the Bolivian Government for alleged money laundering and ties to criminal organizations. As a congressional Representative for many of his family members in New York's Seventh District and a fellow Brooklynite, I am extremely concerned about the Bolivian Government's failure to provide adequate due process and human rights protection for this man.

In fact, I visited Bolivia with Chairman Smith in December to meet with Mr. Ostreicher and discuss his detention directly with high level Bolivian Government officials. While he has been released from prison since our trip, he remains under house arrest with no foreseeable end to his ordeal.

This man has already been detained without due process for the maximum 18 months allowed under Bolivian law; he should have been allowed to return to the U.S. in December.

Yet the government has kept him in the country for an additional 5 months while conducting further investigations, despite the fact the prosecution has produced no evidence whatsoever to

support such allegations. The Bolivian Government's failure to follow its own law is unacceptable and he should be released straight away.

In order to protect the due process and human rights of Americans in foreign custody like Mr. Ostreicher, I am an original cosponsor of Chairman Smith's bill, H.R. 1778, the Justice for Imprisoned Americans Overseas Act, or "Jacob's Law." This important legislation would require the State Department to take action when a U.S. citizen's human or due process rights are being violated while in custody of a foreign government. Moreover, the bill prohibits the provision of U.S. assistance to any foreign government that is responsible for the denial of due process and human rights of U.S. citizens in their custody. I look forward to this proposal coming to the House floor and having the opportunity to vote for it.

However, due process and human rights are not the only entitlements we need to safeguard; we must also ensure our citizens have access to necessary medical services. That is why I am extremely concerned about the reports of Mr. Ostreicher's deteriorating health and recent Parkinson's disease diagnosis. Bolivia should release him immediately so that he may return to the U.S. to obtain a comprehensive medical evaluation with his own doctors and, of course, be with his family.

While I ultimately hope for his swift homecoming, I am still grateful for the small improvements in his situation. He is no longer incarcerated under the harsh conditions at Palmasola prison and is receiving some medical treatment in the interim.

I would like to take this opportunity to commend Mr. Penn for the measures that he took last December to help him access desperately needed health services and secure bail. Mr. Penn, your presence there meant so much to him and, for that, I am really grateful.

Due process is not only an important element of a transparent legal system, it is a human right. It is incumbent upon the U.S. Government to protect this right for all American citizens, whether at home or abroad. We must ensure that the Bolivian Government upholds its due process laws and return Mr. Ostreicher to the U.S. immediately.

And I also would like to add, Mr. Chairman, how grateful I am for the role that the Bolivian press has played in covering this case, giving it the high profile that was much needed with the Bolivian society.

And with that, I yield back, Mr. Chairman.

Mr. SMITH. Ms. Velázquez, thank you very much.

Mr. Nadler.

Mr. NADLER. Thank you, Mr. Chairman. I want to begin by thanking you and Ranking Member Bass for holding this hearing and for giving me the opportunity to participate although I am not a member of the committee. I also would like to thank Sean Penn for his advocacy on behalf of Mr. Ostreicher, which is helping bringing international attention to this issue in a way that we couldn't otherwise.

I am here today because my constituent Jacob Ostreicher remains in unlawful detention in Bolivia. Along with Mr. Ostreicher's

family, friends, and his community in Brooklyn, I am very concerned about his continued confinement and his welfare.

As you know, on June 20, 2011, Mr. Ostreicher was arrested in Bolivia on allegations of money laundering and associating with criminal organizations. He was held in a notoriously dangerous Palmasola prison for 18 months, and though he was released from prison on bail in December of last year, he remains under house arrest. Now nearly 2 years after he was originally detained, formal charges have yet to be filed against him and Mr. Ostreicher continues to maintain his innocence.

In addition, more than a dozen Bolivian officials, including prosecutors, judges and the chief legal counsel to the Bolivian Interior Ministry, have since been arrested in connection with corruption in this case, in effect for attempting to frame Mr. Ostreicher. This amounts to nothing less than a horrible injustice for Mr. Ostreicher, who is in poor health and has been forced to stay in Bolivia separated from his wife, five children and 11 grandchildren.

This is a man whose life has been unfairly put on hold while justice is denied to him day after day. Especially after the people instrumental in accusing him have been accused of corruption by the Bolivian Government, it is unfathomable that he continues to be held. The Bolivian authorities must be made immediately aware that this now absurd miscarriage of justice is unacceptable and conveys a negative message about their country to the United States and to the world.

In fact, earlier this year the United Nations High Commissioner of Human Rights issued a report specifically citing Mr. Ostreicher's case as evidence of endemic corruption within the Bolivian justice system, indicating that Mr. Ostreicher's treatment constitutes a serious human rights abuse. Specifically in reference to Mr. Ostreicher's case, the U.N. report states, "The existence of an extortion ring within the judiciary constitutes a serious threat to the credibility of the administration of justice."

The Bolivian Government must take immediate action to grant Jacob Ostreicher the due process he deserves and show to the world that this sort of injustice will not continue.

Since he was first imprisoned I have been in frequent contact with the State Department about the status of Mr. Ostreicher's case and his condition. I want to thank the State Department for its work thus far in communicating with the Bolivian Government regarding Mr. Ostreicher's situation and to express his frustration and that of our entire Government regarding his treatment. That work must continue until we see positive results.

In December of last year, after meeting with Mr. Ostreicher's wife, Miriam, I wrote a letter to Secretary of State Clinton asking for help communicating to the Bolivian Government the necessity of giving Mr. Ostreicher reasonable access to a swift trial. I also wrote a letter along with my colleagues in the House and Senate to the Bolivian Government making the same request. I understand that Bolivian law has its own standards that allow a prisoner to be held for 18 months on preliminary charges in the pre-trial phase if there is a reasonable basis to believe that he or she committed a crime. That 18 months has long passed and they have shown no reasonable basis for believing that a crime was com-

mitted by Mr. Ostreicher. While I am glad that a Bolivian judge allowed Mr. Ostreicher to be detained at home rather than in prison, at home in Bolivia that is, holding someone for 2 years without a trial violates basic standards of fairness and human rights. Mr. Ostreicher is entitled to a fair trial like anyone else, to see the evidence against him, to have the opportunity to present evidence in his own behalf and to have that case heard promptly and impartially. If prosecutors do not have the necessary evidence already at hand, they should dismiss the case immediately and let him return to his family in New York.

Our job will not be done until Mr. Ostreicher has been afforded a full measure of the simple justice to which everyone is entitled. We need everyone, Members of Congress, officials in the executive branch and other interested parties, to keep up the pressure on the Bolivian Government. It is important for everyone to remember our goal, to make sure Mr. Ostreicher is provided fair treatment and basic due process.

The Bolivians must be made to understand that we will not stand idly by and simply accept the treatment that he has received to date. Pressure must continue to be applied to the Bolivian Government and its justice system to get Mr. Ostreicher and his family out of the terrible limbo they are in, either by finally giving him the trial he deserves or by dropping the charges and releasing him forthwith.

I hope this hearing will serve to do just that, to keep the pressure on the Bolivian Government and to demonstrate how important Mr. Ostreicher and his situation are. It is important to U.S. Government officials and to the United States Government as a whole.

With that, I thank you again, Mr. Chairman, and I yield back.
Mr. SMITH. Mr. Nadler, thank you very much.

It is now an honor and privilege to welcome to the committee and introduce to the committee Sean Penn.

In January 2010, after a 7.0 magnitude earthquake struck the nation of Haiti, Mr. Sean Penn established the J/P Haitian Relief Organization. Today, Mr. Penn directs a predominantly Haitian staff of nearly 400 development professionals to support the residents of the camps of J/P HRO and surrounding areas as they transition from life left homeless by the earthquake to durable, sustainable, and prosperous communities. This is done through foreign integrated programs, medical camp and relocation management, engineering and construction, and community development. J/P HRO is dedicated to saving lives and bringing sustainable programs to the Haitian people quickly and effectively. I know Mr. Penn will be traveling to Haiti from here. He is joined today by Ben Krause, Chief of Staff for the organization. Welcome, Ben, as well, to the committee.

For his efforts, Mr. Penn has received numerous awards and honors. He was named Ambassador-at-Large for Haiti and presented with this honor by the President at a ceremony in Port-au-Prince in 2012. More recently, Mr. Penn was presented with the 2012 Peace Summit Award at the 12th World Summit of Noble Peace Laureates, a tribute for extraordinary solidarity by the Haitian Parliament in a combined meeting of the National Assembly.

There is a long list of impressive awards and recognitions from the U.S. Army, international humanitarian organizations, and others that have flowed to him for his work.

In addition to humanitarian work Mr. Penn, as we all know, has become an American film icon in a career spanning nearly three decades. Mr. Penn has received two Academy Awards and five Academy Award nominations for Best Actor. He is also a successful screenwriter, director, producer, journalist and, as we all are very grateful, a great friend of Jacob Ostreicher.

Mr. Penn.

STATEMENT OF MR. SEAN PENN, FOUNDER AND CHIEF EXECUTIVE OFFICER, J/P HAITIAN RELIEF ORGANIZATION

Mr. PENN. Chairman Smith, distinguished members of the committee, I sincerely appreciate your efforts and support of U.S. citizen Jacob Ostreicher and his family, and thank you for allowing me the opportunity to come before you and share my experience regarding Mr. Ostreicher and the increasing urgency of his situation.

In 2012, I traveled three times to Bolivia, first in February on behalf of the Republic of Haiti in my role as Ambassador-at-Large. There I met with President Morales and I found him a man sincerely dedicated to his people and their economic and social development. It may be instructive to anecdotally recall for you the topics that dominated his part of our conversation.

Number one, the issue of Bolivia's sea rights over ancestral Bolivian lands commandeered by a past Chilean Government 150 years ago.

Number two, despite a standing extradition treaty with the United States, the U.S. has steadfastly refused to recognize the treaty as it might require the return of Bolivia's former President, Gonzalo Sanchez de Lozada, who is charged with genocide and currently in asylum in the United States, as well as Bolivia's former drug czar, General Rene Sanabria, who is currently held in the United States.

I believe this second point is key to understanding Bolivian skepticism toward any outreach for respect of rule of law or human rights in the case of American Jacob Ostreicher.

Number three, and perhaps the most instructive, the Bolivian campaign to educate those outside the region on the cultural and economic value of their dominant coca crop.

I will not sit here today as an advocate for any of these three primary concerns though, I will briefly quote from a blog piece I published shortly after that trip:

“While indeed coca leaf is the base material for the production of cocaine, it resembles cocaine only so much as does the fertilizer so accessible and profitable in the United States, so necessary for our own farming community and its regrettable relativity as the base material for explosives.”

Bolivia's campaign seeking markets for export for the multiple benign uses of coca leaf reads, “Coca no es cocaina.” The economic impact on Bolivia of this largely puritanical misconception is tremendous and translates to human hardship that is palpable in that country. Further, it inflames the uninformed perceptions that con-

nect Bolivia's leadership with the criminal narcotrafficking that Bolivia itself is so dedicated it to abate.

Since this indigenous President assumed office in 2006 and while the United Nations General Assembly designated President Morales World Hero of Mother Earth in 2010, internal Bolivian opposition media, political, and economic powers have continuously exploited our own internal propaganda, leveraging the false perception of drug lordship and totalitarianism against this elected leader of this democratic socialist country.

As a result, the U.S. media has ignored the rest of the story in Bolivia, including the tremendous reforms that have been enacted under President Morales' leadership, including a new Constitution embracing human rights at its core.

Furthermore, even the case of Mr. Ostreicher garners a paucity of attention. An article just last week on CNN.com listing Americans unjustly held overseas failed to make mention of Mr. Ostreicher's case in spite of this subcommittee's repeated efforts to bring the injustice to national attention and peaceful resolution.

My second trip to Bolivia in October 2012 resulted from a call from a colleague who had been contacted on behalf of the imprisoned American, Jacob Ostreicher. Based on my brief history with President Morales, I was asked to review the Ostreicher case, and having done so to my absolute satisfaction in his innocence, bring the case to President Morales.

I began by reviewing the report of former FBI investigator Steve Moore, consulting with Mr. Ostreicher's Bolivian attorneys as well as his Washington based law firm representing he and his family pro bono, and discussing the matter with Mr. Ostreicher's wife, Miriam Ungar. All of these people have provided testimonies to this subcommittee before, and I would strongly encourage all of the new members to review the testimonies provided on June 6th and on August 1, 2012, so as to better inform yourselves to the injustice of Mr. Ostreicher's situation.

I continued my investigation discussing the matters with members of the United States' State Department and made inquiries to my Venezuelan and Bolivian colleagues.

Finally, I thoroughly reviewed the situation on the ground myself in Bolivia. Following all of this, I was not only personally and thoroughly convinced of Mr. Ostreicher's innocence, but particularly alarmed by a consensus both among Bolivian officials as well as international sources that the unevincenced prosecution of Jacob Ostreicher was SOP, standard operating procedure, in the fundamentally corrupt Bolivian judiciary.

At that point I requested a second meeting with President Morales. In that meeting in La Paz I was able to share with the President the materials that had been provided me as well as additional information I had garnered from multiple sources.

I will subject my intuition to your judgment. I was convinced then and I remain convinced today that these findings were received by the President with tremendous personal and human grief, that the President had indeed inherited a judiciary that at once was populated by brave and ethical servants of the Bolivian people and the rule of law but that within it a mafia-proportioned criminal network referred to as "la Red" in Bolivia maintains a

devastating grip on power, extortion, narcotrafficking, and human cruelty.

I was not educating a President, but I was witnessing one who like any President faces the multifaceted challenges of governance. This President was being asked by an American friend to put laser attention on a single case, but one that he knew, and that I would come to know, reflected the challenge and gravitas of the situation at large for the Bolivian Government and its people in respect to their judiciary.

President Morales in my presence immediately called his Minister of Government, who without hesitation referred to the case of Mr. Ostreicher, and I quote, as “A bad case.”

Following that meeting, the Bolivian Government ordered by President Morales gave new empowerment to the investigatory body, the judiciary, which resulted in the arrests and imprisonments of over 20 Bolivian officials, including Fernando Rivera, a primary representative of the Ministry of Government in the prosecution of Mr. Ostreicher.

What had been exposed was an unprecedented ring of extortion.

Indeed, Mr. Ostreicher’s only “crime” was to have brought a successful rice concession and well-paying jobs to poor Bolivians.

Upon the criminal actions of the judiciary, the rice and heavy equipment was commandeered and sold for personal profit and jobs for poor Bolivians evaporated.

While the principle investor in Mr. Ostreicher’s business venture, Swiss businessman Andre Zolty, was determined to be conducting legitimate and transparent business practices through an investigation by Interpol, and while Mr. Ostreicher had been able to account for every penny, demonstrate that all funds had legally and with full transparency been channeled through the Bolivian Central Bank, and that all funds had subsequently been invested legally and with the same transparency, it was Mr. Ostreicher who was carted off to a prison in Santa Cruz called Palmasola.

Palmasola prison is described as a “modern day Dante’s Inferno.” It has 4,500 inmates and they themselves run it. The corrections officers are limited to perimeter patrol and roll checks. It is a prison that receives the delivery of body bags to the front gate on a weekly basis and feeds its prisoners 18 cents worth of mulchy broth twice daily through a trough. Disease, violence, and humiliation.

In this prison Mr. Ostreicher lost 55 pounds, a full third of his body weight, and suffered the onset of Parkinson’s disease and was subject to tremendous physical violence by guards and fellow inmates.

In addition to enabling the arrests of “la Red” extortion network, President Morales also ordered an emergency medical examination for Mr. Ostreicher. I flew to Santa Cruz where I met with Minister of Government Carlos Romero and his Vice Minister Jorge Peres. With the support of President Morales and the assistance of Mr. Ostreicher’s Bolivian attorneys, Minister Romero and Vice Minister Peres were able to expedite the doctor’s examination.

We went to Palmasola at 1 o’clock a.m. that same night and stood witness as the Bolivian state appointed doctor made the determination that Mr. Ostreicher was at life risk and signed the pa-

pers ordering that he be transported to a private medical clinic for immediate and continuing treatment.

On my third visit to La Paz in December 2012 I was scheduled to meet with President Morales and Vice President Linera in advance of Jacob's hearing the following day. At the diplomatic home of Venezuelan Ambassador to Bolivia, Cris Gonzalez, we were informed that the meeting would no longer be necessary as Mr. Ostreicher's hearing in Santa Cruz the following morning was assumed to be that which would secure his release and exoneration.

We were flown by military transport that evening to Santa Cruz. The following morning at the courthouse we were brought to a waiting room where despite our optimism Mr. Ostreicher, who was then in a minimally improved physical state, wearing the required body armor that acknowledged the Bolivian state's own concern for his safety in light of the criminal elements within their own judiciary, constrained by his own disability to a wheelchair, with hands shaking from Parkinson's disease, nonetheless had clarity of mind that our optimism had stolen from us.

As we prepared for the arrival of the judge and the hearing to take place, I imparted to him based on what I had been told in La Paz that he would very soon be seeing his wife, his five children and his 11 grandchildren, from whom he had been significantly parted for 2 years. He said to me, "It won't happen, Sean, these, expletives, want to kill me. I am too dangerous to them as a witness."

At that point we were notified that the judge would soon enter the court, and I assisted Mr. Ostreicher in his wheelchair into the courtroom.

As an actor I have been in good movies and I have been in bad movies. I have never seen a worse movie or more arch villainy on such a caricature-ish and humanly diabolical level as I witnessed in that courtroom.

Despite the clear and unequivocal arguments of innocence and, more importantly, evidence of innocence brought by Mr. Ostreicher's Bolivian defense team, the judge, under the clear intimidation of a panel of snickering, arrogant and hateful prosecutors, would have none of either logic or law.

With Mr. Ostreicher still too frail to be touched without tremendous pain through his bones, contact with his then-paper-thin skin and the Parkinson's, mixed with a heightened stress anxiety creating intense shaking, the prosecution dared even to challenge the Bolivian state doctor's medical diagnosis and claimed that Mr. Ostreicher was perfectly healthy and pushed for him to be returned to the death-factory of Palmasola prison.

What followed was a very challenging negotiation to keep Mr. Ostreicher in the clinic so as to keep him from being returned to Palmasola prison and where we stand today through the diligent work of both his Bolivian and American attorneys and the dedicated support of this committee, and of Governor Bill Richardson, and indeed the cautious support of President Morales and his Venezuelan counterparts, Mr. Ostreicher is remanded to house arrest. While his weight and mobility have returned to something close to normal, the Parkinson's, quite likely triggered by the stress in his

time in Palmasola prison, remains a debilitating concern, and he is in daily fear for his life, further exacerbating his Parkinson's.

It is high time Mr. Ostreicher elderly parents, wife, children, and grandchildren receive him back in the United States to move on with their lives.

This tragic scenario is not Bolivia. It is not the Bolivian people. It is not the Bolivian President. What it is, is an example of the continuing of the Bolivia's 100 years of struggle and its fight for human rights and its revolution for freedom. In that revolution, Bolivians have demonstrated an extraordinary courage and will for sacrifice. It is on that basis and in solidarity with President Morales and the Bolivian people that I offer the following: Last week registration opened for the Dakar Rally. As the off-road driving enthusiasts among us know, the Dakar Rally is one of the premier rally raid cross-country driving competitions in the world. Started more than 30 years ago as a race from Paris, France, along the Sahara to the desert in Dakar, Senegal, together hundreds of competitors in the motorcycle, car, and truck classes to compete in a 2-week race covering thousands of miles of the world's roughest terrain. For host countries the Dakar rally brings hundreds of thousands of dollars in charitable donations, millions of spectators and tourists, hundreds of millions of dollars in economic activity, and billions of viewers from 190 countries through global broadcasting. While the net impact of the rally is at times controversial, many have shared sentiments like the Government of Peru, which declared the rally "a national interest," and the Argentine Minister of Tourism, who called the rally "the biggest promotional tool for tourism in Argentina's history."

For the past 4 years the Dakar Rally has been racing through South America and in January 2014, for the first time ever, part of the race is scheduled to traverse southern Bolivia, making Bolivia the 28th host country in the rally's history. In fact, just last month rally organizers competed in a dress rehearsal across Bolivia's famous salt flats. The Dakar Rally, one of the world's most prominent displays of freedom and tenacity of the human spirit, will be parading through Bolivia even as thousands of prisoners like Mr. Ostreicher sit in feces filled cells, forgotten, behind locked walls, and surrounded by the sort of inhuman savagery we only dream is possible in existential nightmares. The Dakar Rally is scheduled to celebrate the triumphs of the human spirit and innovation on the same soil where the Bolivian justice system festers and loots the same from its innocent and uncharged victims.

The Economist has reported that "at least two-thirds of the prison population in Bolivia is on remand awaiting trial." Awaiting trial.

So I ask you, the distinguished members of this committee, join me in calling on the sponsors of the Dakar Rally to bring their influence to bear for the thousands of innocent victims of the Bolivian justice system and especially for Jacob Ostreicher.

Starting with the official partner of the Dakar Rally, the petrochemical giant Total, and then moving to each of the official partners: Michelin, Honda, Mitsubishi Motors, Red Bull, EDOX, Karcher, Aggreko, and even the official race photographer Maindru Photo, I ask that you use your influence to call on these sponsors

to insist that their support for the Dakar Rally will either require Mr. Ostreicher is finally freed to return to the United States and, as Mr. Nadler mentioned, the 18 months allowed by the Bolivian Constitution to be held without charge has already passed and so there should be no discussion that could give opening to too late offers of an expedited trial, freed as a first sign of goodwill and the intention on the part of the Bolivian Government and the ethical within its judicial institutions as they continue the long and difficult process of justice and reform or the Dakar Rally with not enter Bolivia.

I am confident the good people in these companies do not want to support the perpetual imprisonment of innocents and will recognize the necessity of principled withdrawal should the Government of Bolivia fail to act. But they should do this for practical reasons, too. Imagine the tragedy of one of their own people or one of the tourists following the rally while it passes through Bolivia were to become victims like Jacob and land behind bars without charges, without evidence against them and without rights.

As 2014 will be the first time that the rally ventures into Bolivia, this first test run will only consist of one stage of the motorcycle class venturing across the Bolivian salt flats. This is to say that if the Bolivian justice system continues to deny Mr. Ostreicher the freedom that they themselves have indicated he is due, since they have not brought any legitimate charges against him, it is still possible for the Dakar Rally to exclude Bolivia.

The international pressure could very well be precisely what the President of Bolivia needs to be able to finally expel the malignant cancer of corruption that is killing both of the Bolivian justice system and the thousands of innocent people like Mr. Ostreicher. Putting a clear cost for the continued abuse of the justice system on the economic elites of the country may well give President Morales and the people of Bolivia the leverage needed to advance their heroic fight for freedom and justice in Bolivia to the next level.

So again, I ask that you all join me in calling on the sponsors of the Dakar Rally, Total, Michelin, Honda, Mitsubishi Motors, Red Bull, EDOX, Karcher, Aggreko and Maindru Photo, to demand Jacob's freedom as a condition of their support for the Dakar Rally in Bolivia.

A last thought came from a telephone call that I had with a friend, a friend of high rank in the United States military. After spending most of his military career in South America and the Caribbean, he was later deployed to a post in South Asia, and after several months of deployment we spoke. He said that he had always considered the challenges of Caribbean and Latin America nearly insurmountable until experiencing his new position focused on South Asia and the Middle East. His realization of how much commonality the United States, Latin America and the Caribbean share he said, "Should make this butter." It is my hope that Bolivia and the United States will take the lead in a new era of diplomacy and human rights for that which is our shared human interest, that Cuba will follow with the release of Alan Gross, and that the United States will refocus its diplomatic consideration on the Cuban Five without regard for fundamentalist opposition within political constituencies. Bolivia has a rare opportunity to trigger

the movement of a new day where the discussion of human rights is a discussion without borders.

Thank you.

[The prepared statement of Mr. Penn follows:]

Name: Sean Justin Penn

Title and Affiliations: Founder and CEO of J/P Haitian Relief Organization (J/P HRO)

Committee: House Committee on Foreign Affairs

Date of Hearing: 20 May 2013

Title of Hearing: "Advocating for American Jacob Ostreicher's Freedom after Two Years in Bolivian Detention"

Chairman Smith and distinguished members of the committee. I sincerely appreciate your efforts in support of US citizen Jacob Ostreicher and his family and thank you for allowing me the opportunity to come before you to share my experience regarding Mr. Ostreicher and the increasing urgency of his situation.

In 2012 I travelled three times to Bolivia, first in February on behalf of the Republic of Haiti in my role as Ambassador-at-Large. There I met with President Morales, and in him I found a man sincerely dedicated to his people and their economic and social development.

It may be instructive to anecdotally recall for you the three points that dominated my first conversation with President Morales.

Number 1 - The issue of Bolivia's sea rights over ancestral Bolivian lands commandeered by a past Chilean government 150 years ago.

Number 2 - Despite a standing extradition treaty with the United States, the US has steadfastly refused to acknowledge the treaty and return Bolivia's former President, Gonzalo Sánchez de Lozada, who is charged with genocide and currently in asylum in the US as well as Bolivia's former Drug Czar, General Rene Sanabria, who is currently held in the US.

Number 3 - the Bolivian campaign to educate those outside the region on the cultural and economic value of their dominant Coca crop.

I will not sit here today as an advocate for any of these three primary concerns though I will briefly quote from a blog piece I published shortly after that trip.

"While indeed coca leaf is the base material for the production of cocaine, it resembles cocaine only so much as does the fertilizer so accessible and profitable in the United States, so necessary for our own farming community and its regrettable relativity as the base material for explosives."

Bolivia's campaign seeking markets for export for the multiple benign uses of coca leaf reads "Coca no es cocaína" and the economic impact on Bolivia of this puritanical misperception is tremendous and translates to human hardship that is palpable in that country. Further it inflames the uninformed perceptions that connect Bolivia's leadership with the criminal narco-trafficking that Bolivia itself is so dedicated to abate.

Since this indigenous President assumed office in 2006, and while the United Nations General Assembly designated President Morales "World Hero of Mother Earth" in 2010, internal opposition media, political and economic powers have continuously exploited our own internal propaganda, leveraging the false perception of drug-lord-ship and totalitarianism against this elected leader of this democratic socialist country.

My second trip to Bolivia in October of 2012 resulted from the call of a colleague who had been contacted on behalf of the imprisoned American, Jacob Ostreicher. Based on my brief history with President Morales, I was asked to review the Ostreicher case, and having done so to my satisfaction in his innocence, bring the case to President Morales.

I began by reviewing the report of former FBI Investigator Steve Moore, consulting with Mr. Ostreicher's Bolivian attorneys as well as the Washington-based law firm representing he and his family pro-bono and discussing the matter with Mr. Ostreicher's wife, Miriam Ungar. All of these people have provided testimonies to this Subcommittee before, and I would STRONGLY encourage all of the new members to review the testimonies provided on June 6 and August 1, 2012 so to better inform yourselves to the injustice of Mr. Ostreicher's situation.

I continued my investigation discussing the matter with members of the US State department and made inquiries to my Venezuelan and Bolivian colleagues. Finally, I thoroughly reviewed the situation on the ground myself in Bolivia.

Following all of this, I was not only personally and thoroughly convinced of Mr. Ostreicher's innocence, but particularly alarmed by a consensus both among Bolivian officials as well as international sources that the un-evidenced prosecution against Jacob Ostreicher was Standard Operating Procedure in the fundamentally corrupt Bolivian Judiciary.

At that point, I requested a second meeting with President Morales. In that meeting in La Paz, I was able to share with the President the materials that had been provided to me as well as additional information that I had garnered from multiple sources.

I will subject my intuition to your judgment. I was convinced then, and am convinced today that these findings were received by the President with tremendous personal and human grief – that the President had indeed inherited a

judiciary that at once is populated by brave and ethical servants of the Bolivian people and the rule of law but that within it a mafia-proportioned criminal network referred to as "La Red" in Bolivia maintains a devastating grip on power, extortion, narco-trafficking and human cruelty.

I was not educating a President, but I was witnessing one who like any President faces the multi-faceted challenge of governance. This President was being asked by an American friend to put laser attention on a single case, but one that he knew, and that I would come to know, reflected the challenge at large for the Bolivian Government in respect to their judiciary.

President Morales, in my presence, immediately called his Minister of Government who without hesitation referred to the case of Mr. Ostreicher as "a bad case."

Following that meeting, the Bolivian Government, ordered by President Morales, gave new empowerment to the investigatory body of the judiciary which resulted in arrests and imprisonments of over 14 Bolivian officials including Fernando Rivera, representative of the Ministry of Government in the prosecution of Mr. Ostreicher.

What had been exposed was an unprecedented ring of extortion.

Indeed Mr. Ostreicher's only "crime" was to have brought a successful rice concession and well-paying jobs to Bolivia. Upon the criminal actions of the judiciary, the rice was commandeered and sold for personal profit and the jobs evaporated.

While the principle investor of Mr. Ostreicher's business venture, Swiss businessman Andre Zolty, was determined to be conducting legitimate and transparent business practices through an investigation by Interpol, and while Mr. Ostreicher had been able to account for every penny, demonstrate that all funds had legally and with full transparency channeled through the Bolivian Central Bank and that all funds had subsequently been invested legally and with the same transparency, it was Mr. Ostreicher who was carted off to a prison in Santa Cruz called Palmasola.

Palmasola prison is described as a "modern-day Dante's Inferno". 4,500 inmates in a prison that they themselves run with the corrections officers limited to perimeter patrol. A prison that receives a delivery of body bags to the front gate on a weekly basis and feeds its prisoners 18-cents-worth of a mulchy broth twice daily from a trough. Disease. Violence. Humiliation.

In this prison, Mr. Ostreicher lost 55 lbs, a full third of his weight, and suffered the onset of Parkinson's disease.

In addition to enabling the arrests of "La Red" extortion network, President Morales also ordered an emergency medical examination for Mr. Ostreicher. I flew to Santa

Cruz, Bolivia where I met with Minister of Government Carlos Ramiro and his vice minister, Jorge Peres. With the support of President Morales and the assistance of Mr. Ostreicher's Bolivian attorneys, Minister Morales and Vice Minister Peres were able to expedite the doctor's examination.

We went together to Palmasola at 1 am that same night and stood witness as the Bolivian state-appointed doctor made the determination that Mr. Ostreicher was at life risk and signed papers ordering that he be transported to a private medical clinic for treatment.

On my third visit to Bolivia in 2012, I was scheduled to meet with President Morales and Vice President Linera. At the diplomatic home of Venezuelan Ambassador to Bolivia, Cris Gonzalez in La Paz, we were informed that that meeting would no longer be necessary as Mr. Ostreicher's hearing in Santa Cruz the following morning was assumed to be that which would secure his release and exoneration.

We were flown by military transport that evening to Santa Cruz. The following morning at the courthouse, we were brought to a waiting room where despite our optimism, Mr. Ostreicher who was then in a minimally-improved physical state, wearing a required body armor (that acknowledged the Bolivian State's own concern for his safety in light of the criminal elements within their own judiciary), constrained by his own disability to a wheelchair with hands shaking from Parkinson's Disease, nonetheless had a clarity of mind that our optimism had stolen from us. As we prepared for the arrival of the judge and the hearing to take place, I imparted to him based on what I had been told in La Paz that he would very soon be seeing his wife, his five children and 11 grandchildren that he had been significantly parted from for two years.

He said to me, "It won't happen, Sean. These [expletive omitted] want to kill me. I'm too dangerous to them as a witness."

At that point we were notified that the judge would soon enter the court, and I pushed Mr. Ostreicher in his wheelchair into the courtroom.

As an actor, I have been in good movies and bad ones. I have never seen a worse movie, nor more arch-villainy on such a caricature-ish or humanly diabolical level as I witnessed in that court room.

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With Mr. Ostreicher still too frail to be touched without bone contact through his then-paper-thin skin, and the Parkinson's mixed with a heightened stress-anxiety creating intense shaking, the prosecution dared even to challenge the Bolivian State

doctor's medical diagnosis and claim that Mr. Ostreicher was perfectly healthy and pushed for him to be returned to the death-factory of Palmasola Prison.

What followed was a very challenging fight to keep Mr. Ostreicher in the clinic so to keep him from being returned to Palmasola prison.

Where we stand today, through the diligent work of both his Bolivian and American attorneys, and indeed the cautious support of President Morales and Venezuelan counterparts, Mr. Ostreicher is remanded to house arrest. While his weight and mobility have returned to something close to normal, the Parkinson's quite likely triggered by the stress of his time in Palmasola prison remains a debilitating concern and he is in daily fear for his life – further exacerbating his Parkinson's.

It is high-time Mr. Ostreicher's elderly parents, wife, children and grandchildren receive him back in the United States to move on with their lives.

This tragic scenario is NOT Bolivia. It is NOT the Bolivian people. It is NOT the Bolivian President. What it is, is an example of the continuing of Bolivia's hundred years struggle in its fight for human rights and its revolution for freedom. In that revolution, Bolivians have demonstrated an extraordinary courage and will for sacrifice.

It is on that basis, and in solidarity with President Morales and the Bolivian people, that I sincerely request that all of the distinguished members of this committee use every peaceful means necessary to persuade the Bolivian Judiciary to finally release Mr. Ostreicher to return to the United States and to his family. As the 18 months allowed by the Bolivian Constitution to be held without charge have already passed there should be NO discussion that could give an opening for too-late offers of expedited trial. No, Mr. Ostreicher should be freed immediately to return to the United States.

This international pressure could very well be precisely what the President of Bolivia needs to be able to finally expel the malignant cancer of corruption that is killing both the Bolivian Justice System and thousands of innocent people like Mr. Ostreicher. By calling attention to the injustice of Mr. Ostreicher's case and by using all peaceful means to pressure for Jacob Ostreicher's freedom, we may well be giving President Morales and the people of Bolivia the leverage needed to advance their heroic fight for freedom and justice in Bolivia to the next level – and in doing so, we can safely return our too-long-abandoned fellow American, Jacob Ostreicher, to his loving family.

Thank you.

Mr. SMITH. Mr. Penn, thank you very much for that extraordinarily eloquent but also very bold statement. Not only did you lay out all the very real and tangible efforts that you have made and others have made encouraging, asking, petitioning, but now I believe you have given a means to a very positive outcome with the Dakar Rally recommendation. I can tell you that we will circulate a letter, pursuant to your recommendation, to the sponsors and ask that they again not allow this very important rally, this great economic boom, to occur in Bolivia until Jacob is freed. So I think this could be a game changer, it ought to be. Persuasion has, for almost 2 years, not worked. So I think you bring to the table an enormous next step, and for that I believe all of us are very grateful for that recommendation.

Mr. PENN. Thank you, Mr. Chairman.

Mr. SMITH. It does underscore another issue; how any non-Bolivian, and even a Bolivian business investor could have any confidence that doing business in Bolivia might not make them the next Jacob Ostreicher. It is a very real threat to them, and so I think you have laid out a course of action that we will follow up on and I do thank you for that. Without leverage, you know, jaw boning and recommendations, even friendships only go so far, so thank you for that. If you wanted to elaborate any further on the idea, but we will circulate a letter. It will be bipartisan, I know that. And I think that will be very effective to at least get us on record.

Mr. PENN. Thank you.

Mr. SMITH. Let me just ask you, you talk about the judicial system and I am glad you bring a very, very sharp focus there. In my first press conference with the Bolivian press last June, I had known of so many other cases that were just like Jacob's but non-American, and said that look at Jacob as a means to an end of getting the judicial system up to world class standards, international standards of fundamental human rights, due process rights, and as you said, la Red, this nefarious organization, this network continues to not only hurt Jacob but it hurts Bolivian people, and one of the points I made to the Bolivian press is that we stand in solidarity with the press in Bolivia just as we did with Jacob. And so join us in trying to push for reform, and I think your point was very well taken on that as well.

No one should be behind bars ever anywhere who is innocent. We are not having any hearings about Americans who are committing crimes. We are having hearings and promoting innocent Americans, or anyone else for that matter, who are being prosecuted unjustly. So I take your point on that one as well.

Just one question and any comment that you might want to make. We have tried to get the United Nations to do more, along with other organizations. We know that Denis Racicot is there. I have met with him, Nydia Velázquez and I have met with him. But we know the U.N. itself is under pressure and runs a risk and has a certain fear that its own personnel might be retaliated against. But it seems to me that in New York the Human Rights Council ought to be taking up Jacob's case and the U.S. should be promoting that as well. Because when other levers don't work international organizations certainly provide a potential remedy.

So if you wanted to speak to that.

Mr. PENN. Well, I think that there are several institutions and government organizations who may be able to contribute their good offices and influence there. Bolivia is a very poor country, as we know, and it does demand an enormous amount of economic support in various sectors. So I think that there is that. At the same time I came to this hearing today a little ambivalent simply because there is such a perspective shift culturally that when they are challenged, especially by either citizens or government officials in the United States, there is an inclination towards, let's say, to this level of self-destructive defiance in the kind of populism that is typical of the region. Leaderships often have to appeal on the basis of that defiance toward the United States. And I think that again, you know, that in looking forward on these kinds of negotiations in the future this is really a time as we become increasingly global I think it makes a lot of sense for us to adjust our view related to our own human rights abuses in this country, and also within any kind of the black and white hold-ons that maintain small, small groups dictating the policy at large that affects the perception of the United States worldwide.

There are compromises to be made. I brought up the Cuban Five. Clearly there are some in the Cuban Five who are seemingly guilty of higher offenses than others. But these are the kinds of diplomatic things that we really need to start working toward a fresh start with, so that we don't have a defiant leadership in these countries the next time something happens.

And that would I think further empower the State Department to take a more active role. At this point I think it is fair to say that despite criticism the State Department has had, even in the case of Mr. Ostreicher, my experience there is that they have been very diligent and yet very cautious and rightly so because their public position taken against this government is that which quickly can inflame the situation rather than diffuse it.

Mr. SMITH. Ms. Bass. Thank you.

Ms. BASS. Once again, Mr. Penn, thank you very much for your testimony. I particularly appreciated your testimony providing a context and especially a historical context in terms of our relationship with Bolivia, the sensitivity of that, the new leadership in the country, and also the precarious position that the President finds himself in. So I wanted to ask you a couple of questions along those lines.

One, in terms of if you believe the U.S.-Bolivian relationship partially contributed to Mr. Ostreicher's imprisonment?

And then your call for us to do a letter, I was speaking with Chairman Smith and said I am more than willing to sign on to a letter, and maybe that letter actually calls for the companies you talked about to withdraw their involvement unless he is released. On the other hand, the flip side of that is what were you just talking about. I am happy to do that if you think it would be helpful. On the other hand I would just be a little concerned that that could inflame things or even perhaps compromise President Morales. You described him as being genuinely concerned about the situation, and so that begs the question of why couldn't he just order the re-

lease. And so is the reason because he is in part receiving the pressure from la Red, is that what you referred to them as?

Mr. PENN. Yes. Well, this would be the—you are referring to the criminal network within the judiciary, yes.

Ms. BASS. Right. So I guess I am asking if you do think that's a good idea to ask for it to be that strong, to withdraw their involvement, which could certainly compromise the economic benefit to the country. Would that be helpful or would that be a contributing factor to inflaming?

Mr. PENN. I think as with anything there is a threshold, and it is my opinion that the threshold has been crossed in terms of the incarceration of Jacob Ostreicher. Not only to the deficit of Mr. Ostreicher but to the Bolivian people and to the future of the institution of judicial process. I think that what I was insinuating was not so much that President Morales was cautious related to the reaction or the influence of la Red, but in particular that in the same way that leadership throughout the world are vulnerable to opposition media, the media is a rabid dog there, and they are largely run by opposition forces and influenced by opposition forces to this democratically elected leader of his people.

So I by no means am suggesting a lack of courage; in fact, quite the contrary, but in terms of political strategy, he is caught between a rock and a hard place, is my perception of this. And also those ministers, those good ministers within the judiciary, in that as soon as they stand up and say, you know, they believe that Jacob Ostreicher should be released or he is innocent of these charges or, in fact, as is the case there is no evidence whatsoever against Mr. Ostreicher, it starts to be rumored that they are representatives of narcotrafficking.

So it is that internal struggle that is never going to be broken until the strategy is based on principle. And the simple principle here is that if there is going to be an enormous amount of money generated in a country that is doing this, a country where human rights is the low-hanging fruit of the yearning of the actual leadership and the people, well, then, in fact, they are inviting such solidarity, as I read it. That these companies do just that, and make the decision with the very clear thought that it is simply wrong to continue to support it.

Ms. BASS. Sure. Because there are different questions, degrees. We call on them to speak out or we can call on them—

Mr. PENN. Yes. And we are not asking that they suddenly revolutionize the judiciary. We have a difficult time doing that here—

Ms. BASS. Thank you.

Mr. PENN [continuing]. Or our school systems. We know that it is difficult. Governance is difficult. What we are saying is show the first step. Here is the easiest case you have. The man is clearly innocent. Even your officials within the judiciary acknowledge that. As I said, this is “a bad case.” That is what he meant: “We have no case. We are just holding him.” Release him now.

Ms. BASS. You know, I also wanted to ask you, while you were in Bolivia, did you have any interaction with our Embassy and its staff? And also the fact that we don't have an Ambassador in place. I don't know what level of involvement or participation they had in your visits.

Mr. PENN. Well, as you know, President Morales recently ousted USAID. And I think that is further representation of the kind of concerns, one, that starts with what has been a history of intervention, often, I think, very negligent intervention on the part of United States, both in Bolivia and other countries in South America. This is embedded in the spirit of the people and of their leaders. I think in struggling for a new day, certainly we need Ambassadors. We need them there, we need them in Venezuela. But, yes, I had some limited interaction with what again had appeared to be a very supportive Chargé d'Affaires at the Embassy in Bolivia. But as my particular interest at the time was in communicating separate from that because I didn't want to mix the issues too much, I spent most of the time with Bolivian officials.

Ms. BASS. Last question, slightly different topic, thought. In terms of what the President did a couple of weeks ago, I think it was a couple of weeks ago, when he expelled USAID, how did you read that? Did you read that as President Morales doing that because he needed to take a stand against the U.S.? Or did you ever hear of particular concerns? You know, was there some legitimacy to that? People were upset about something USAID had done?

Mr. PENN. I think, you know, as it goes region to region that the investment of USAID or the commitments of USAID there were not on such a level that it couldn't be used politically. At the same time, I am more inclined to take the President at his word. And I think he is fed up with what would be considered hegemony.

Ms. BASS. Thank you. Thank you very much.

Mr. SMITH. Chair recognizes the ranking member of the full committee, Mr. Engel.

Mr. ENGEL. Thank you, Mr. Chairman. And let me once again thank you for your really hard work and determination in this particular case. You have been doing so much of this for so long that everyone really should know it.

And, Mr. Penn, I want to thank you for adding star power to this. It is really very, very important. It is frustrating for us. You know, we try to get people to focus on it. But everyone is going a million different directions. And as the ranking member on the full committee, I want to just thank you for coming here. It is very, very, very good of you.

The case obviously is heartbreaking. The injustice on Jacob Ostreicher and his family is difficult to fully grasp. And when he was detained under murky circumstances in Bolivia in 2011, no one could have imagined that to this day he would be prevented from going home to New York. It is now clear, as was said here, that Jacob was the victim of a sordid extortion ring. And multiple arrests have been made in the case. And we fully expected these arrests would be followed by his release. But, unfortunately, he is in a legal spiral. And even though the prosecution has never presented evidence against him, he has now been held in Bolivia for 718 days.

I have met with Evo Morales on different occasions, once right here in this building in my office, once in Bolivia. I would certainly be willing to meet with him again. What is happening here is reflecting very poorly on Bolivia, its legal system and its government. And I had said to President Morales, he threw out our Ambassadors.

sador—this was several years ago—and kicked out our drug agents, and seemed to feel that things could go on as usual, normal as usual. It really cannot be the case. And it is difficult for our governments to have relations as usual as long as Jacob Ostreicher is there.

Mr. Penn, you have visited Mr. Ostreicher in Bolivia. You have appeared by his side in some very difficult moments. And I think your humanity is something that we all really admire. I see Miriam here, Jacob's wife. And it is good to see you. And I hope that next time we will see each other and celebrate in New York after he has been released.

Jimmy Carter, former President, is meeting with Morales today. And I hope he—I wish him luck in advocating for Jacob.

Mr. Penn, I wanted to ask you, we have very few cards to play, the United States has very few cards to play. It is frustration because very few cards. But what should we be doing that we haven't done? I know we have all tried. Certainly, the chairman has gone there and made it a cause celebre of his. And we have tried to focus attention on it. In a situation like this, we are not so sure if we make noise about it if it is good for Jacob or if we are quiet about it it is good to Jacob. You don't really know what to do. You don't want to be quiet and then nothing happens; you don't want to make noise and then Morales or whomever gets offended, you have to try to find the right mix. In your opinion, because you have been doing this and you have been out in front of this, what should we be doing here in the Congress that we haven't done? Or in the government that we haven't done?

Mr. PENN. I think this returns to the question from Ms. Bass. Because I would agree, it is treacherous territory when going public in any way on these things. There is—and I say this with nothing but regard—a great humility in the culture that is exemplified by someone, for example, like President Morales. And when statements are made that seem to be continuations of the ideologies and the entitlements and what fairly could be called the arrogances of misguided policies, historically or currently, we always have to be very cautious.

When talking about, for example, a letter on the Dakar Rally. I think you should know, if I am speaking as fairly as I can, that my opinion on that is based on the belief, and I do not think that in any way this is over dramatizing or exaggerating the situation, I believe Jacob's life is in danger as we sit here today. The people whose own freedom is at risk, both those at large and currently in prison and facing charges, are people who have played very serious "baseball." It is very hard for us sitting in the United States to understand just how fast a .37 bullet can fly. I think that we are at a point now, we don't want to look back and say, "We shoulda."

So what is our option? I think, for example, to recognize it and to do it as I recommended, which is in solidarity with what the government itself claims to be in pursuit of. There is that.

I also can tell you, simply based on the kind of chatter conversations one has traveling in these regions, I think that it would be a very, very powerful step for the United States to look to negotiating the release of one or more of the Cuban Five.

I think that we always have to look at the result. And the result, both for someone like Jacob Ostreicher as well as for Alan Gross in Cuba, of the United States being the one to step up.

By no means am I suggesting that Bolivia be given a pause while that is considered. But I think we really have to add some perspective. We know that our country has about 28 percent of its citizens total with passports at all. And we can all fall into what becomes an inherently limited-perspective analysis of the world.

We could do better. We could do better this way.

Mr. ENGEL. Would you think that—in your opinion, would it be possibly helpful if we made it clear, if our Government made it clear that the release of Mr. Ostreicher would lead to a rapprochement with Bolivia? You know, we have had, as I have said, very strained relations since our Ambassadors have been out, and drug agents, harming cooperation that we had with Bolivia for many, many years. Evo Morales made a point when we met with him, because I also took a delegation down there, that he is used to being the President of a coca farmers' union. And made a big point of how he is for the rights of the downtrodden. You know, I can't think of anyone more downtrodden right now than Jacob Ostreicher.

Shouldn't it be indicated to him—I know a lot of this is obviously done behind the scenes and not done in hearings—but that his release would allow for a rapprochement, that we have a lot of things that we could offer Bolivia, and this might be a step in the right direction; that it takes two to tango and we could probably tango together.

Mr. PENN. Yes. And it is my feeling that that could be done in a very genuine way. Because in all of the conversations that I have had, and I am talking bipartisan groups related to this within government—within the United States Government, there is an enormous will to embrace the selected indigenous President of that country. A tremendous will. But as long as Bolivia and its judiciary, or the President, in effect takes cover behind an institution that has an internal revolution going on within it of corruption, we won't be able to—I wouldn't expect that our Government officials would get very far with their constituencies. I think that he has to make this first move. I hope he does for Bolivia's sake. I hope he does for his sake and his leadership's sake.

Mr. ENGEL. Well, I think that is very well put. And I would certainly concur with what you said.

The final thing I want to say, very much in the past several years the policies of Bolivia have been wrapped around the policies of Venezuela. And the two governments have been working in tandem. Obviously, there is in Venezuela, with a longstanding leader passing away, I would hope that this case could lead, perhaps, to Evo Morales standing up on his own and breaking out on his own and showing that he is nobody's number 2 person, he is branching out and going to be number 1 in terms of dealing with the United States. I would say that I hope to do everything that might be done to help facilitate that. I just hope that he would understand that I think there is a very big chance now with Hugo Chavez being gone that the United States and Bolivia could perhaps reach out

again in cooperation and what better way to start than by releasing Jacob Ostreicher.

Mr. PENN. I would only, if I may, I would only caution that the pursuit of that from the United States' side must be very sensitive to the understanding that it is not because it wasn't available due to President Chavez, this is always going to be two-sided, it is not going to be that they are going to be necessarily more in-line ideologically with what we as the United States want them to be, but in fact that there has been an existing potential diplomatic relationship far exceeding that which either side has been successful in accomplishing for reasons of stigma and propaganda, and because we suffered—I think one of the great enemies of Jacob Ostreicher today has been one of the greatest challenges we face throughout the world, which is the media perversion of the circumstances. When the media perverts the circumstances, then our own politicians are also influenced as we are talking about President Morales being.

I can tell you of a circumstance, you know, we were involved, President Chavez helped very directly with the three U.S. hikers who were in Iran. And it was then-Minister of Foreign Affairs Maduro and his then-Deputy, Temir Porrás, with whom I met and who directly went to Iran to negotiate with the Supreme Leader following failed negotiations with President Ahmadinejad. So here was the Venezuelans meeting me at the airport in New York City on behalf of three Americans who were arrested in Iran.

It just takes a little respect to get a long way, particularly in these regions that I would concur with my military friend, who I was quoting before, with whom we have so much more in common than we do in difference.

Mr. ENGEL. Thank you very much, Mr. Penn. I have always been a fan of yours for other reasons, but now I am really a fan of yours. Thank you very much.

Mr. PENN. Thank you, sir.

Mr. SMITH. Thank you, Mr. Engel.

Ms. Velázquez.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Mr. Penn, thank you so much for bringing a unique perspective that sometimes is lacking when we are dealing with issues concerning Latin America. You know, here we are, sometimes we don't like—we support and encourage democratic processes throughout the world but when those democratic processes produce results that we don't like then it brings a different dynamic. And sometimes cases, like Mr. Ostreicher, are linked to those dynamics whether we like it or not. I hope that from this moment forward we seize the opportunity as a government to improve our relationships with Latin America and deal as equals. Because that is important.

So, as a private citizen, Mr. Penn, you have a unique access to this case. My question to you is, given what you know, given all the meetings that you have held with officials in the past and the present, now they are saying that he is going to be held under house arrest for 5 more months. Do you see any light at the end of the tunnel in terms of a resolution that gets him home within those 5 months? Or do you foresee that it might take longer?

Mr. PENN. As long as the leadership maintains that this is under the authority of the judiciary and claims a position that they have no legal recourse outside of that, my experience with and witness of that judiciary is I would have absolutely no faith on Earth that he will ever leave Bolivia if it is left to that.

Ms. VELÁZQUEZ. You have worked in so many worthy causes, from victims in Haiti after the earthquake in 2010 to Hurricane Katrina in 2005. Could you take a moment and tell us what compelled you to advocate for Jacob Ostreicher?

Mr. PENN. A colleague, the actor Mark Wahlberg, had called me. I think that—my understanding is that he had had some philanthropic activities with some of the rabbis from Mr. Ostreicher's synagogue. And asked—I think initially he had asked if I might bring the case to President Chavez. And at that point, I informed him that I might be able to bring it directly to President Morales, which is what I did.

And as I said, it was—you know I can give you a very simple answer, it timed at a point when I could pay attention to it. And in paying attention to it, I couldn't stop paying attention to it.

Ms. VELÁZQUEZ. Thank you.

Thank you, Mr. Chairman.

Mr. SMITH. Mr. Nadler.

Mr. NADLER. Thank you. And thank you, Mr. Chairman.

Let me again start by thanking you, Mr. Penn, for your activism in this and a few other things. Let me ask you a few questions.

You said the President is—President Morales is fed up with what he considers hegemony. Are you referring to the hegemony of the United States or the judiciary?

Mr. PENN. Of the United States.

Mr. NADLER. Of the United States. And in light of that, you suggested that American companies could put pressure on the government by threatening to pull out of the Dakar Rally. Do you think that would—there is a real risk that that would be viewed as more hegemony and might backfire, or is that something we ought to try?

Mr. PENN. Well, the companies themselves are not only U.S. companies. I think that, you know, that this can come in a variety of ways. I would like to consider, and I think that myself in consultation with other supporters of Mr. Ostreicher will send out a request for citizens on an international level to support this and to make these reach-outs to these companies. I would like to talk directly and attempt to talk directly to these companies and people on the boards of these companies.

But again, it goes back to the threshold consideration and that there has been quite a concerted effort on behalf of Mr. Ostreicher in a situation where virtually nothing else has worked or made sense. I mean, I think in talking to anyone that has been in proximity to this case, it really makes no sense. And aside from Mr. Ostreicher and his family, the damage it is doing is so particularly to the leadership in Bolivia and to the people. This is, I believe, a wake-up call because it goes very much to—the beneficiaries of that investment are going to start with those who are in the opposition.

Mr. NADLER. Thank you. Do you think the President realizes how much this is damaging Bolivia?

Mr. PENN. No. I don't think so. I think that the President's area of expertise is very, very rich, and his areas of deference to the expertise of others is fairly weighted as well, and I have minimal faith in many of the others who surround the President.

Mr. NADLER. Okay. Now, you either said or implied before that you thought the President, President Morales, thought that Mr. Ostreicher's treatment had been unfair but that he has deferred to the judiciary. Now, I don't know what the situation is in Bolivia, maybe you do, that is why I am going to ask the question. In this country and in many countries, the prosecutions, the prosecutors are agents of the executive branch, not of the judiciary. Is that the case in Bolivia? I mean, could the President simply tell the prosecutors to drop the case?

Mr. PENN. Say that again, I am sorry.

Mr. NADLER. Could the President simply tell the prosecutors to drop the case? Are they agents—are the prosecutors part of the judiciary or are they agents of the executive branch in Bolivia?

Mr. PENN. It is my understanding that once the 18 months passed that this could come down from the executive branch.

Mr. NADLER. So we have to convince the President that he could do it on his own without taking on the judiciary.

Mr. PENN. Yes.

Mr. NADLER. Let me ask you one other—okay. So your judgment is that we should pursue this Dakar Rally despite some risk of blow-back.

Mr. PENN. There is no question there is risk of blow-back.

Mr. NADLER. But the odds are that they should pursue it?

Mr. PENN. That is my feeling.

Mr. NADLER. Okay. Let me ask you another thing. Did you, in talking to people in Bolivia, to the President, did you get any blow-back in a different way: Who the heck are you Americans to be talking about someone held for 2 years without a trial when you have held hundreds of people in Guantanamo for 10 years without a trial? Is this affecting this?

Mr. PENN. Yes. These things affect us, and it is part of the daily conversation. In fact, in my own personal circumstances, after the would-be-joke-were-it-not-so-tragic hearing that I described in my initial statement, there was a collection of those who had been involved: The lawyers, Embassy staff, U.S. Embassy staff, Venezuelan Embassy staff, and Bolivian Government there, it was at that time that Mr. Ostreicher had decided that the only way to approach this—and it is from him I take most of my guidance in answering your questions—though I have not discussed the Dakar Rally with him. I was concerned about discussing it prior to coming and giving you the testimony—but I had discussed and had at his request participated in going public, it is his general feeling that it is—

Mr. NADLER. "His" meaning Mr. Ostreicher's?

Mr. PENN. Yes. And it was he that requested that we do a press conference the day following that mockery of a hearing. When we did so, I can tell you that after passing my prepared statements that I had written that night before by the Minister of Communications for the Bolivian Government as well as several authorities within the judiciary, as well as those representing the other gov-

ernments who were participating in support, even after getting all of my statements signed off on, because I was looking to be very careful about how I did it, the blow-back which started with the media response and the media manipulation of the things that I had said and the way that it was being used to misinform a challenged-literacy population, worked very much against the President. And the President was very upset by the statement I made and no doubt will be upset by the statements I have made today.

I want to go on record saying I have enormous respect for President Morales and great affection for the man, but I just feel that my responsibility as a human being is with Jacob Ostreicher on this issue. And I do think that President Morales can only benefit from all of us speaking out at this point because I think that he is like many world leaders, challenged by a bubble and by corrupt forces within his own administration.

Mr. NADLER. Well, we have to hope that you are right. And we will pursue that, obviously.

And, again, thank you for your efforts on this and so many other things.

I yield back.

Mr. PENN. Thank you.

Mr. SMITH. Thank you very much, Mr. Nadler.

And thank you, Mr. Penn, for your, I think, extraordinary testimony. I think your point, you know, "challenged by a bubble," what a way to put it, is excellent. He needs to know what is going on, doesn't necessarily get the kind of information that would make a difference. I really believe and I hope the press takes note. You come here as a friend to Evo Morales. Much of his politics, it wouldn't be something I would agree with, but this is not about any of that, it is all about Jacob Ostreicher, a man whose life is at grave risk. Justice demands it, humanitarianism demands it. And I do think for Evo Morales and the government to step up and release him now is enlightened self-interest. It is harming the reputation of the Bolivian Government.

I would disagree with you about the opposition. I do believe oppositions, no matter where they are, play, whether it be the United States or anywhere else, a constructive role. You know, I never think of my Democratic friends as the enemy. We are the loyal opposition, and vice versa. And I do think they play a very good role. I know there are certain members of the opposition who are facing charges themselves, Senator Pinto, for example, and many others. It ought to be all about an absolutely unassailable judiciary that just looks at lawbreakers and then prosecutes them.

Mr. PENN. Yes, if I mistakenly generalized that, certainly, I didn't mean it in a blanket sort of way.

Mr. SMITH. Thank you. We do have a list, I will make it part of the record, of all of the, so far, 27 individuals—and I do hope the press and my colleagues will take a good, long look at it starting with Fernando Rivera, lawyer of the Ministry of Government. And as you go down it, we are talking about very high-level people in the prosecution service who themselves now are in Palmasola prison or under house arrest, and five of them are fugitives. So, you know, this—the facade of legitimacy has been ripped off. Jacob, sadly, has been the cause, or the proximate cause, as to why that

happened. But on behalf of his family, we all just want him back. And you have done, I think, a huge service to justice, democracy, human rights, and to Jacob Ostreicher.

If you have anything you would like to say in conclusion, or we will just conclude the hearing.

Mr. PENN. I would just thank you all, and I'm very honored and grateful to have been able to share the comments.

Mr. SMITH. Thank you, Mr. Penn, and we look forward to working with you in the future. We appreciate it.

Mr. PENN. Thank you.

[Whereupon, at 4:30 p.m., the subcommittee was adjourned.]

A P P E N D I X



MATERIAL SUBMITTED FOR THE HEARING RECORD

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

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Christopher H. Smith (R-NJ), Chairman

May 13, 2013

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 Africa, Global Health, Global Human Rights, and International Organizations in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at www.foreignaffairs.house.gov):

DATE: Monday, May 20, 2013

TIME: 3:00 p.m.

SUBJECT: Advocating for American Jacob Ostreicher's Freedom after Two Years in Bolivian Detention

WITNESS: Mr. Sean Penn
Founder and Chief Executive Officer
J/P Haitian Relief Organization

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 202/225-5021 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 Africa, Global Health, Global Human Rights, and International Organizations HEARING

Day Monday Date May 20, 2013 Room 2172 Rayburn HOB

Starting Time 3:00 p.m. Ending Time 4:30 p.m.

Recesses 0 (to) (to) (to) (to) (to) (to)

Presiding Member(s)

Rep. Chris Smith

Check all of the following that apply:

Open Session

Electronically Recorded (taped)

Executive (closed) Session

Stenographic Record

Televised

TITLE OF HEARING:

Advocating for American Jacob Ostreicher's Freedom after Two Years in Bolivian Detention

SUBCOMMITTEE MEMBERS PRESENT:

Rep. Bass

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

Rep. Velazquez*, Rep. Nadler*, Rep. Engel

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.)

List of 27 Bolivian officials involved in Jacob Ostreicher's case who have been charged
Statement by Senator Charles Schumer submitted by Rep. Eliot Engel

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 4:30 p.m.

Gregory B. Singler
Subcommittee Staff Director

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE CHRISTOPHER H. SMITH,
A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY, AND CHAIRMAN,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND INTER-
NATIONAL ORGANIZATIONS

Bolivian officials involved in Jacob Ostreicher's case who have been charged

1. Fernando Rivera – Lawyer of the Ministry of Government
2. Denis Efrain Rodas – Lawyer of the Ministry of Government
3. Gustavo Cespedes – Former Representative of the Minister of Government in Santa Cruz
4. Jose Manuel Antezana Pinaya – General Director of Public Management of Vice
Ministry Government Coordination
5. Boris Villegas – Former Vice Minister of Government
6. Isabelino Gomez – Former District Attorney of Santa Cruz
7. Edward Mollinedo – Anti-corruption Prosecutor
8. Janeth Velarde Luna – Prosecutor of controlled substances
9. Roberto Acha – Prosecutor of controlled substances
10. Moises Agileria – Former Director of Dircabi Santa Cruz
11. Miguel Alberto Gutierrez – Inspector of Dircabi Montero
12. Ramiro Ordonez – Inspector of Dircabi Santa Cruz
13. Cori Balcazar de Acha – Wife of Roberto Acha
14. Fernando Orellana – Judge
15. Zenon Rodriguez – Former Judge and Appellate Judge
16. Wilzon Arevalo – Judge
17. Franklin Pedraza – Inspector Dircabi Santa Cruz
18. Bedmard Bellido Bellido – Inspector Dircabi Santa Cruz
19. Juan Carlos Herrera – Facility SAN JORGE
20. Cesar David Pardo – Facility RENACER
21. Victor Cardenas – Facility EL ORIENTAL
22. Olympia de Sanabria – EL NARANJAL
23. Mario Ariel Rocha – President of the Superior Court of Justice of Santa Cruz
24. Miriam Acho Pinto – Former Director General of Dircabi Bolivia
25. Jorge Vaca Justiniano – Government Official
26. Jorge Henry Chavez – Government Official
27. Rery Villaroel – Lawyer of Facility Owners

MATERIAL SUBMITTED FOR THE RECORD BY THE HONORABLE ELIOT L. ENGEL, A
REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Statement by U.S. Senator Charles E. Schumer

Jacob Ostreicher needs to be freed immediately. He has been held in Bolivia without formal charges for nearly two years, including 18 months in prison. Though he is no longer in prison, he unfairly remains under house arrest. It is unacceptable that he remains confined even though numerous high ranking Bolivian officials have confessed that Jacob was framed as part of an elaborate extortion scheme. In fact, more than a dozen Bolivian judges and officials have been incarcerated in connection with this extortion plot. It saddens me that this man continues to be held in Bolivia, separated from his family and unable to return home to New York for what I can only conclude are political reasons. It is time he comes back to the United States, any further delay continues to be shameful and inexcusable.