

Families Torn Apart

The High Cost of U.S. and Cuban Travel Restrictions

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I. Summary and Recommendations

Over the past four decades, hundreds of thousands of people have left Cuba, many of them seeking basic rights denied them by the government of Fidel Castro, such as the rights to freedom of expression, association, and assembly. Their ability to pursue these freedoms abroad has been curtailed, however, by Cuba's denial of another fundamental right—the right to freedom of movement.

Cuba routinely refuses to grant its citizens permission to leave their country and often denies those who have left permission to return. These restrictions have resulted in the involuntary separation of many Cuban families, violating the rights of children to be with their parents.

The emotional toll on family members is immeasurable. A Cuban physicist who now lives in Brazil, for example, has never been able to meet his six-year-old son. His ex-wife and son are in Cuba, but because he violated Cuban travel restrictions by refusing to return from an authorized trip abroad in 2000, the Cuban government has barred him from visiting the island to see his child. A Cuban mother in Mexico, who was separated from her sons for three years in similar circumstances, told Human Rights Watch that she felt like the Cuban government “tore out a piece of my life.”

Yet Cuba is not alone in imposing travel restrictions that divide families. Over the past four decades, the United States has used Cuba's dismal human rights record to justify an economic embargo aimed at removing Fidel Castro from power. Not only has this policy failed to bring democracy to the island, it has provided Castro with a convenient justification for his government's repressive practices. Recently, rather than abandon or modify the embargo, the administration of George W. Bush has sought to strengthen it through travel restrictions that, like the policies of Fidel Castro, undermine Cubans' right to freedom of movement.

As part of a broader ban on travel to Cuba, the Bush administration imposed strict limits on family-related travel in June 2004. Under the new rules, individuals are allowed to visit relatives in Cuba only once every three years and only if these relatives fit the administration's narrow definition of “family.”

As with the travel rules imposed by Cuba, these new restrictions have had a profound impact on many Cuban families. A Cuban-American woman in Miami was forced to end her frequent trips to care for her ailing father, a widower with advanced Alzheimer's

disease and no immediate relatives left in Cuba. She was unable to help or comfort him as he succumbed to depression, stopped eating, and eventually died. A U.S. army sergeant, denied permission to visit his two sons in Cuba during a two-week furlough from active duty in Iraq, was forced to return to the front lines feeling he had been unable to “fulfill [his] obligation as a father.”

The travel restrictions imposed by Cuba and the United States run counter to the human rights principle that all people have a right to return to their own country. This principle of international law, established in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, applies in this case not only to Cuban citizens, but also to Cuban Americans who have such close ties to Cuba that they cannot be considered mere aliens. Cuba’s travel policies, by denying exit visas to some of its citizens, also violate their right to leave their country. And, in the case of children separated from their parents by the travel restrictions, both countries’ policies infringe on their right to family unity enshrined in the Convention on the Rights of the Child and the Universal Declaration of Human Rights.

Human Rights Watch conducted interviews with more than fifty Cubans and Cuban Americans whose families have endured forced separation caused by the travel restrictions imposed by Cuba, the United States, or both. These cases illustrate the profound hardships that prolonged separation causes families—from the distress of children forced to grow up without seeing their parents to the anguish of adults unable to bid farewell to loved ones who are dying.

The cases also illustrate why freedom of movement is a fundamental right for people confronting repressive regimes, as well as for migrants seeking to maintain their ties with family members in the country they have left behind.

Cuba’s Restrictions on Travel

The Cuban government forbids its citizens from leaving or returning to Cuba without first obtaining official authorization. Unauthorized travel can result in criminal prosecution.

Cuba denies exit permits to hundreds, possibly thousands, of people every year. A large proportion of the Cubans denied travel permits are health care professionals. Those denied are routinely told that the Public Health Ministry’s “Resolution 54” requires trained medical professionals applying for exit visas to wait three to five years before their application will be considered.

Cuba justifies the restriction on travel permits for health care professionals as a measure to avoid “brain drain.” It argues that skilled professionals who have received an education from the Cuban state have an obligation to serve the Cuban population. Yet it applies this policy not only to recent graduates of medical school, but also to veteran doctors, including a sixty-two-year-old neurologist who played a central role in developing Cuba’s advanced neuroscience program. For more than a decade, the Cuban government has denied this prominent doctor permission to visit her son and grandchildren in Argentina on the grounds that her “brain is property of the government of Cuba” and therefore she must remain on the island, even though she resigned her medical position in 1994.

Cuba also regularly denies visas to the relatives of those whom it calls “deserters”: people who left the country without permission or refused to return at the end of an authorized trip. It also refuses these “deserters” permission to return to Cuba, thereby cutting them off entirely from their families on the island.

The forced separation that results from these travel restrictions can be devastating for families. A Cuban mother in Germany said that, when the Cuban government denied her son an exit visa, it was like “sentencing [him] to live like an orphan with live parents.” Another parent described the emotional toll of his ten-year separation from his daughter: “Every time we served a plate of food, knowing that our daughter was far away and not at our side was very hard These wounds never heal.”

In addition to the emotional hardship of separation, efforts to circumvent the restrictions can prove very costly, whether it is the grave dangers faced fleeing the country on the high seas or the exorbitant bribes paid to corrupt officials to arrange travel permits.

Given these possibilities, and the fear of prolonged separation from family, Cuba’s travel restrictions provide the authorities with a powerful tool for controlling what its citizens say about the government. One Cuban rights advocate who has been denied permission to visit his family in Florida, described the travel policy as a “weapon of deterrence used to intimidate, repress, and control various types of activities.” Similarly, the prominent neurologist who was denied an exit visa described the restriction on travel as “a form of psychological blackmail” that discourages people from criticizing the government. “They think that if they shut up and please the government maybe someday the government will give them permission.”

U.S. Restrictions on Cuban Travel

Evaluating the U.S. embargo on Cuba, a report by President George W. Bush's Commission for Assistance to a Free Cuba concluded in 2004 that one of the main obstacles to promoting a "free Cuba" has been the behavior of the Cuban people themselves.

According to the presidential commission, Cuban Americans and Cubans in the United States make regular visits to their families on the island and generate "a significant cash windfall to the regime" by paying the high travel fees imposed by the Cuban government and spending dollars in the state-run stores on the island. To cut off this revenue source, the Bush administration imposed strict restrictions on family-related travel in June 2004. Under the new rules, individuals are allowed to visit their relatives in Cuba only once every three years, and only if these relatives are members of their "immediate family," defined to include spouse, child, grandchild, parent, grandparent, sibling, or spouse of one of these people.

The Bush administration maintains that individuals are still able to visit their families in Cuba. "An individual can decide when they want to travel once every three years and the decision is up to them," said Dan Fisk, deputy assistant secretary of Western Hemisphere affairs. "So if they have a dying relative, they have to figure out when they want to travel."

But this choice can be an excruciatingly difficult one to make, especially for people with aging relatives, for whom death could come at any time, or those with multiple family members whose health is at risk. Moreover, in many cases the issue is not saying goodbye to ailing relatives so much as helping them to live. The trips serve to bring money and scarce medical supplies, and they grant a temporary respite for other relatives who are taking care of the sick family member. The visits also serve to provide emotional support that can be critical for helping the sick relative to summon the strength to overcome illness or merely endure suffering. "Each time I go there is like giving her an injection of happiness," one woman said of her ailing mother. "It makes her want to keep living."

A visit once every three years is not even an option for those Cubans whose only relatives on the island fall outside of the definition of "immediate family." The administration has defended this particular restriction by trivializing its impact on the families involved. "[W]hat are we supposed to say to them?" Roger Noriega, then serving as assistant secretary of state for Western Hemisphere affairs, asked one reporter. "We're going to continue to allow this money to be shoveled into the coffers

of a regime that's going to keep them in chains in—in—in—under a dictatorship because we want to preserve the right of people to visit their aunts?"

Yet "visiting aunts" is not a trivial matter for many Cubans. Several interviewed for this report spoke of aunts and uncles who had raised them as if they were in fact their parents. Many described relatives who fall outside the "immediate family" definition as being integral parts of their family.

The arbitrary restrictions placed on family travel oblige many desperate Cuban Americans to resort to illegal travel in order to help their families. Many interviewed for this report expressed great frustration that the administration's new restrictions forced them to choose between caring for their families and respecting the law.

When confronted with the hardships caused by the policy, the Bush administration's ultimate defense has been to shift the responsibility to the Cuban government. "[T]he problem of the Cuban situation is not that families are divided," said Noriega. "The problem is that half the family lives in a dictatorship." Yet clearly, for proponents of the embargo, it is also a problem that the Cubans in the United States insist on visiting and supporting that other "half"—thereby generating revenue for the Cuban government. In this sense, the problem for the administration is that the families are not divided enough.

Many of the Cuban expatriates interviewed for this report said that they had abandoned Cuba because they opposed the way it was being governed. But they also insisted that they would not abandon their families. "You can oppose the regime, the policies," one said, "But you're never going to oppose your family."

Many Cuban-born Americans said they felt that, with the travel restrictions, the United States was betraying the very values that it was promoting for Cuba. "I came to this country in search of freedom," said another. "And now I feel like someone is taking away this freedom that I came here for."

Recommendations

To the Cuban Government

- The Cuban government should abolish restrictions on travel that violate the right of any individual to leave his or her country and to return to it. In particular, the government should reform its criminal code to eliminate the crimes of illegal exit and illegal entry (articles 215, 216 and 217) for Cuban nationals.
- The government should also end all policies and regulations that serve to separate families. In particular, the government should abolish the restriction, in place since 1999, barring those who have left without permission or overstayed their travel authorizations from returning to Cuba for five years.
- The government should end the practice of obliging those traveling abroad to leave their children behind in Cuba.
- The government should reform the Public Health Ministry's "Resolution 54," which prevents doctors and other health care professionals from leaving the island for three to five years from the time that they apply for permission to leave. Any new regulation should provide for less coercive ways to encourage doctors to practice medicine in Cuba before emigrating, such as creating economic incentives or establishing a residency requirement for medical students to obtain their degrees. Exceptions should be considered, moreover, for doctors and other health care professionals seeking reunification with children abroad.
- Any regulations limiting travel should be made public. Although many Cubans we interviewed had been told that "Resolution 54" prevented their leaving, none had ever seen a copy of it.
- In cases of Cuban children whose parents live outside the country, the only factor determining whether or not the children may leave should be the best interests of the child. Under no circumstances should a child be kept in Cuba as punishment for the actions of one or more of his or her parents.

To the U.S. Government

- The U.S. government should terminate the economic embargo on Cuba. The embargo is not a calibrated policy intended to produce specific reforms, but a sledgehammer approach aimed at nothing short of overthrowing the government. While failing at its central objective, the embargo's indiscriminate nature has hurt the population as a whole, and provided the government with a justification for its repressive policies.
- Until this step is taken, the U.S. government should eliminate restrictions on travel that undermine family unity and the right of individuals to return to their country of origin.
- In particular, the U.S. government should eliminate restrictions on travel to Cuba by Cubans—including Cuban Americans who were born in Cuba or have relatives on the island.
- Until the travel restrictions are eliminated, the U.S. government should provide humanitarian exceptions that would allow individuals to obtain permission to visit relatives in Cuba who are facing grave medical or other emergency conditions.

II. Cuba's Restrictions on Travel

Background

Past Travel Restrictions

More than one million people of Cuban “origin or descent” live in the United States. Over 700,000 of them were born in Cuba; many still have close relatives on the island.¹

Over the past four decades, Cuban migration to the United States has come in waves, propelled by economic and political developments on the island and curtailed by the migration policies of Cuba (as well as the US policies discussed in the next section of this report). The first wave, which included some 200,000 Cuban emigrants, began shortly after the 1959 revolution and continued until the Castro government halted regular travel to the United States in 1962.²

The second wave began in 1965 when the Cuban government allowed some 5,000 people to leave in a boatlift from the port of Camarioca, and then continued for eight years in the form of an airlift, known as the “freedom flights,” which entailed twice-daily flights to Miami that brought another 200,000 Cubans to the United States. The Cuban government terminated the airlifts in 1973 and a virtual suspension on migration ensued for the rest of the decade.³

The next major exodus occurred in 1980 when the Cuban government, responding to growing pressure for emigration (and the occupation of the Peruvian embassy by some 10,000 people seeking to leave the country), allowed over 125,000 people to leave the island, including some convicted criminals and others deemed “unwanted” in Cuba, in what became known as the “Mariel Boatlift.” Then, in 1981, Cuba began granting permission for its citizens to visit the United States, but migration levels remained low, until pressure for massive emigration rose once again in the early 1990s. Another major exodus began in 1994 when the Cuban government announced that it would not detain anyone trying to leave the island. Some 30,000 people attempted to cross the Florida Straits, many of them on make-shift rafts. The resulting “rafter crisis” prompted the United States and Cuba to negotiate an agreement whereby the United States agreed to

¹ Guillermo J. Grenier and Lisandro Pérez, *The Legacy of Exile: Cubans in the United States* (Boston: Allyn and Bacon, 2003), p. 26.

² Ibid. See also Susan Eckstein and Lorena Barberia, “Cuban-American Cuba Visits: Public Policy, Private Practices,” (Published as part of the Mellon Reports series, January 2001).

³ Grenier and Pérez, *The Legacy of Exile: Cubans in the United States*, pp.23-24; Eckstein and Barberia, “Cuban-American Cuba Visits: Public Policy, Private Practices.”

admit at least 20,000 Cubans a year and Cuba agreed to accept the return of unauthorized emigrants intercepted by the U.S. Coast Guard at sea.⁴

In addition to controlling emigration, the Cuban government has placed strict limitations on visits to the island by Cuban émigrés. For twenty years after the revolution, Cuba forbid them from returning (and confiscated their property on the island when they left). In 1978, the Cuban government began to allow return visits. But it imposed limits on who could visit throughout the 1980s. In 1994, the government further eased restrictions on visits by émigrés, allowing them to travel to Cuba without visas.⁵ But then in 1999, it began imposing a five-year ban on the return of any Cuban who left the country without permission.⁶

Current Travel Restrictions

The Cuban government currently forbids its citizens from leaving or returning to Cuba without first obtaining permission from the government.⁷ Unauthorized travel can result in criminal prosecution.⁸ Under Cuba's criminal code, individuals who, "without completing legal formalities, leave or take actions in preparation for leaving the national territory" can face prison sentences of one to three years in prison.⁹ Similarly, an individual who "organizes, promotes, or incites" an illegal exit can be punished with two to five years of imprisonment, while someone who "provides material assistance, offers information, or in any way facilitates" an illegal exit, risks two to five years behind bars.¹⁰ (The Cuban Commission of Human Rights and National Reconciliation, a Havana-based nongovernmental organization, has documented nineteen cases of individuals who have

⁴ Grenier and Pérez, *The Legacy of Exile: Cubans in the United States*, pp.24-25; Eckstein and Barberia, "Cuban-American Cuba Visits: Public Policy, Private Practices."

⁵ U.S. Department of State, "Cuba Human Rights Practices, 1995," March 1996, http://dosfan.lib.uic.edu/ERC/democracy/1995_hrp_report/95hrp_report_ara/Cuba.html (retrieved June 12, 2005).

⁶ Ministerio de Relaciones Exteriores, República de Cuba, "Servicios Consulares," http://www.cubaminrex.cu/consulares/serv_consintro.htm (retrieved February 21, 2005).

⁷ The legal process for leaving Cuba is expensive and, for professionals, complicated. Those who are employed must first ask permission to leave from their employer, who passes the request along to the relevant governmental ministry. Once the ministry has approved the request (a process that can take years), it is passed on to the migration bureau of the Interior Ministry. Nonprofessionals go directly to the migration bureau. The applicant must then purchase a Cuban passport for \$50. The exit permit costs an additional \$150, which is not returned even if the permit is denied. The final step is a medical examination costing \$450. All of these fees are exorbitant for Cubans.

⁸ Cuba reached an accord on emigration with the United States in May 1995 in which it pledged not to apply the illegal exit law against repatriated Cubans. Yet its failure to revoke this law seriously calls into question its willingness to legitimize the basic right of its citizens to leave their country.

⁹ Cuba's Criminal Code, Article 216. Translation by Human Rights Watch.

¹⁰ Cuba's Criminal Code, Article 217. Translation by Human Rights Watch.

been sentenced to serve time in prison for attempting to leave Cuba illegally in the past five years.¹¹⁾ Individuals who *enter* Cuba “without completing legal formalities or immigration requirements” risk one to three years of imprisonment.¹²

Cuba routinely denies exit visas to several categories of applicants, including health care professionals and young men who haven’t completed their mandatory military service. Cuba also frequently refuses to allow citizens engaged in authorized travel to bring their children with them overseas. In some cases, it denies visas to the relatives of people who have left the country without permission or refused to return at the end of an authorized trip. It further punishes these “deserters” by denying them permission to return to Cuba.

Human Rights Watch was unable to obtain information from the Cuban government regarding the denial of visa applications. (Cuban authorities failed to respond to repeated requests for interviews.) Consequently, it is difficult to establish precisely the full scope of this practice. But there is broad consensus among Cuban human rights advocates and doctors that it is in fact widespread.

This consensus is corroborated by the large number of Cubans who have informed the U.S. Interests Section in Havana that they have been denied permission to leave Cuba after obtaining visas to enter the United States.¹³ The Interests Section received reports of 1,762 individuals being denied exit permits between October 2003 and March 2005.¹⁴ U.S. officials believe that these reported cases represent only a fraction of the total number of individuals denied exit permits.¹⁵

¹¹ Cuban Commission of Human Rights and National Reconciliation, “Lista Parcial de Sancionados o Procesados por Motivos Políticos o Político-Sociales,” July 5, 2005.

¹² Cuba’s Criminal Code, Article 215. Translation by Human Rights Watch.

¹³ As noted above, the 1995 migration agreement between Havana and Washington requires the United States to award at least 20,000 resident visas to Cubans each year. Approximately 85 percent of the Cubans immigrating to the U.S. through this mechanism are chosen by lottery, according to the State Department. Many of the others are family members.

¹⁴ Human Rights Watch email correspondence with Jim Bean, deputy director, Office of Cuban Affairs, U.S. State Department, March 29, 2005.

¹⁵ Human Rights Watch telephone interview with Jim Bean, deputy director, Office of Cuban Affairs, U.S. State Department, March 30, 2005.

Illustrative Cases

Hilda Molina

Dr. Hilda Molina was once a leading figure in the development of Cuba's state-run health care system. Hailed in the official press as a "great scientist," photographed repeatedly with Fidel Castro, and elected to the national Congress, Dr. Molina, a neurologist, founded the International Center for Neurological Restoration (Centro Internacional de Restauración Neurológico, CIREN) in 1988 to coordinate Cuba's neuroscientific work.¹⁶



Dr. Hilda Molina with her mother in Cuba. She was told she could not travel because her brain was "property of the government."

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But when she sought permission to visit her son and grandchildren in Argentina, she was told she could not leave the island because her own brain was "the property of the government of Cuba."¹⁷

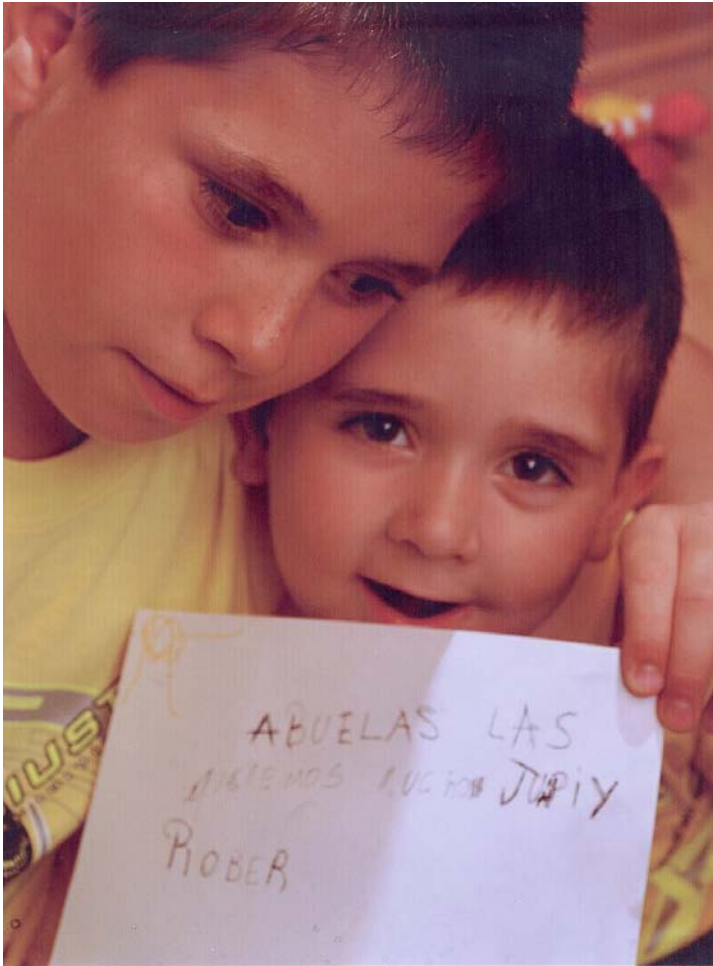
Dr. Molina's son, Roberto Quiñones, also a doctor, left Cuba with his Argentine wife to attend a medical training in Japan in May 1994. When the training ended in June, Dr. Quiñones decided to move to Argentina with his wife, where he has lived ever since.

Shortly after her son's departure, Dr. Molina had a falling out with the Health Ministry and Communist Party, prompting her to resign from both CIREN and the national Congress. The break was caused,

¹⁶ Human Rights Watch telephone interview with Dr. Roberto Quiñones, Buenos Aires, Argentina, February 2, 2005; Human Rights Watch telephone interview with Dr. Hilda Molina, Havana, Cuba, April 18, 2005; and letter to José Miguel Vivanco, executive director of the Americas Division of Human Rights Watch, from Dr. Roberto Quiñones, February 23, 2004.

¹⁷ Human Rights Watch telephone interview with Dr. Hilda Molina, Havana, Cuba, April 18, 2005. The comment, reported to Human Rights Watch by Dr. Molina, is consistent with language employed in a letter by the Cuban ambassador to Brazil, referring to the "theft of brains," (see footnote 34), as well language employed by President Fidel Castro, referring to Cuba as an "incubator of brains" (see footnote 45).

she says, by her unwillingness to succumb to pressures by the Health Ministry to accommodate more foreign patients at the expense of Cubans at CIREN. “They prostituted my work,” Dr. Molina told Human Rights Watch. “They turned my work



Dr. Molina's grandchildren with a note to the grandmother they have never met.

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into a center for earning foreign exchange.”¹⁸ It was also prompted by criticism she

received within the Health Ministry for her decision, made with the agreement of all of CIREN's directors, to use a \$10,000 donation from a grateful Argentine patient to buy gifts of food and clothing for the institution's four hundred workers. Officials at other health institutes reportedly complained to Fidel Castro that she was using capitalist incentives and corrupting the workers of CIREN.

Since her fall from grace, Dr. Molina and her son have been trying to obtain permission for her to visit him in

Argentina. Their efforts intensified when her son's first child was born in 1995, and again after the birth of a second child in 2000.

“I began sending ceaseless letters to the Ministry of Public Health, the Attorney General's Office, the Council of State, the Immigration Department, and finally, three

¹⁸ Human Rights Watch telephone interview with Dr. Hilda Molina, Havana, Cuba, April 18, 2005.

years later, in 1997, they responded,” Dr. Molina told Human Rights Watch. “A military officer from the Immigration Department told me that I could not go because my brain was the property of this country.” Three years later, after Dr. Molina sent further letters to the government, the same officer again told her verbally that she could not leave “because it was an order that must be obeyed,” she said. Dr. Molina never received a response in writing.¹⁹

In December 2004, Argentine President Néstor Kirchner and Foreign Minister Rafael Bielsa pressed Havana to allow Dr. Molina to travel. President Kirchner sent Castro a personal letter asking that the Cuban leader grant Dr. Molina’s grandchildren, by that time three and nine years old, the opportunity to meet her.²⁰ Castro replied by offering to allow Dr. Molina’s son, Dr. Roberto Quiñones, and his family to visit Havana instead. But Dr. Quiñones declined this offer, fearing what might happen upon their arrival. He himself had had difficulties leaving the country in 1994 and did not want to risk being subject to any form of retaliation.²¹

Since she resigned from CIREN, Dr. Molina has had no source of income other than the remittances sent by her son in Argentina. She suffers from a wrist injury which was not properly set in 2002, causing significant muscle atrophy and pain. In addition, she cares for her own eighty-six-year-old mother, who is ill and nearly blind. She and her son have continued to request that she be allowed to leave and return to Cuba without restriction.²²

¹⁹ Ibid.

²⁰ Ibid; “Una carta de Kirchner apela a la sensibilidad de Fidel Castro,” *La Nación*, December 5, 2004, http://www.lanacion.com.ar/politica/nota.asp?nota_id=660281 (retrieved February 5, 2005).

²¹ According to Dr. Quiñones, a immigration official stopped him from following his wife onto the plane when the couple tried to leave, even though his passport and exit visa were in order. When Dr. Quiñones then requested that his wife and luggage be taken off the plane, the guard refused, saying that his wife, who was Argentine, must leave. When she learned what was happening, his wife objected and tried to run down the stairs off the plane. She was stopped by several soldiers. However, after the other passengers, many of them Mexican tourists, protested in favor of Dr. Quiñones’s wife, Dr. Quiñones was finally allowed to board the plane and leave. Dr. Hilda Molina filed a complaint about the incident, and was informed that her son had been mistaken for someone else. Human Rights Watch telephone interview with Dr. Roberto Quiñones, Buenos Aires, Argentina, February 2, 2005.

²² Ibid; and “Una carta de Kirchner apela a la sensibilidad de Fidel Castro,” *La Nación*, December 5, 2004; “Una carta de Fidel Castro evitó una seria crisis con Cuba,” *La Nación*, December 15, 2004, http://www.lanacion.com.ar/politica/nota.asp?nota_id=660286, (retrieved February 5, 2005).

Teresa Márquez and Roberto Salazar

“Teresa Márquez” and **“Roberto Salazar”** were separated from their two sons for three years and five years, respectively, after they abandoned Cuba without permission and the government refused to let the children join them.²³

Salazar, a musician, left Cuba in 1998 with a contract to perform in México. Once there, he decided to stay. Two years later, in 2000, Márquez obtained permission to travel as a tourist to visit him. She too stayed.

The couple immediately set about trying to obtain exit visas for their two sons, ages eight and nine, who remained in the custody of her parents in Cuba. In 2000, Salazar traveled to Cuba and, together with his mother-in-law, visited the migration offices in her hometown. The officials he met with called him a “deserter,” placed a mark in his passport showing that he had stayed outside the country without permission, and refused to grant permission for him to take his children out of the country.

Two years later, in September 2002, Márquez traveled to Cuba to see if she could do better. But she, too, was rebuffed and was obliged to return to Mexico without their children. Six months later, in March 2003, migration authorities told Márquez’s mother that the children could leave. Márquez returned to Cuba that month to retrieve the kids, but was again denied permission to bring them home with her. Finally, on April 26, the children were allowed to fly alone to Mexico to rejoin their parents.

Being separated from her children for three years was a “horrible” experience for the couple. “It changed my life completely,” Márquez told Human Rights Watch. “They tore out a piece of my life.”²⁴

María Elena Morejón

It took nuclear scientist **María Elena Morejón** nearly two years to get her son out of Cuba after her husband, Israel Perú Castro, defected in Austria in 2000.²⁵ Her case, in which she and her child were separated in retaliation for the actions of her husband, illustrates the collective nature of Cuba’s punitive travel restrictions.

²³ Human Rights Watch telephone interview with “Teresa Márquez” (not her real name), Mexico, May 2, 2005. Márquez is one of many Cubans or Cuban Americans interviewed who requested that their names be changed to protect members of their family in Cuba.

²⁴ Ibid.

²⁵ Human Rights Watch telephone interview with María Elena Morejón, Hannover, Germany, April 5, 2005.

Morejón traveled with her husband and infant son in the late 1990s to Austria, where the couple represented Cuba at the International Agency for Atomic Energy. When her husband decided to defect at the end of their period of authorized travel, Morejón left him and moved back to Cuba with the child. Once back in Cuba, she married a German and, in 2001, obtained German visas for her son and herself so that they could join her new husband in Germany. However, the Cuban government would not grant an exit visa to her son, then four years old, because of his father's "desertion."

In October 2001, Morejón sent a written request to the migration office of the October 10th municipality of Havana for permission for her son to leave. Receiving no reply, she visited the office in person and presented to an official there medical documents showing that her son's health was delicate, and that he should be able to leave with his mother. The official assured her that her case would be treated as "exceptional," and his papers would be processed in less than three months.²⁶

In December, Morejón traveled to Germany without her son, after being advised by an acquaintance who worked in the Interior Ministry that she would be more likely to get her son out quickly if she left the country. Yet by April 2002, she still had received no word regarding her son's travel permit. So she sent a relative to speak to the migration official, who reported that permission would soon be granted. The relative also visited the national migration office and received the same assurances.²⁷

Convinced that her son would soon receive an exit visa, Morejón returned to Cuba to escort him to his new home. It was at this time that she learned that she and her son would be punished for her ex-husband's defection. On April 25 she met with the migration official at the national office, who informed her that government policy held that relatives of "deserters" must wait five years before leaving the country. "The revolution has to defend itself," Morejón recalls the official saying, "and that's why the family members of deserters will be retained in Cuba for no less than five years."²⁸ At the same time, however, he assured her that the case would be reexamined and that he expected a positive result within two months. However, she would need to submit another letter with additional information, which she did on April 30.²⁹

²⁶ María Elena Morejón, "Petición de Reunificación Familiar, presentada para que sea examinada de conformidad con el Protocolo Facultativo del Pacto Internacional de Derechos Civiles y Políticos," undated.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid.

In June, Morejón returned to Cuba to press for a reply to her new request, but was told that the case had been transferred to the Interior Ministry. In a meeting on June 21, an officer at the Interior Ministry told her to return to Germany, and expect a positive answer by no later than August. After that, Morejón continued making phone calls to



Maria Elena Morejón felt her son was being sentenced to "live like an orphan with live parents."

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different government offices from Germany inquiring about the case. On November 23, the October 10th migration office summoned Morejón's parents for a meeting, during which they were assured that the only thing missing from the file was a letter of invitation. With the letter in hand, Morejón's relatives began making weekly visits to the migration office, where they were repeatedly told that the request just needed to be approved "at a higher level."³⁰

Yet months passed without approval. On February 18, 2003, Morejón spoke on the phone with the national migration officer who had previously explained the government's policy of denying exit permits to the relatives of "deserters." His reaction was even more severe than before, she recalls. He said

that her "only choice" was to return to Cuba and wait with her son until the government determined that its internal regulations, aimed at protecting the revolution, had been complied with. "We will try to make it less than five years," she recalls him saying, "but don't call me any more because I have no more time to talk to you."³¹

On March 1, 2003, Morejón wrote the Cuban Ambassador to Germany, warning that she would publicize her case if her son was not allowed to leave soon. Not receiving any

³⁰ Ibid.

³¹ Ibid.

response, Morejón began a whirlwind of activities to draw international attention to her family's plight. She contacted the *Miami Herald*, which published a story about their case. She contacted several foreign embassies in Germany and traveled to the Vatican to plead her case. She also traveled to Geneva to publicize her case among human rights advocates and officials attending the annual meeting of the U.N. Commission on Human Rights.

On June 26, 2003, her parents called her to tell her the exit visa had finally been approved and on July 16, mother and son were reunited in Germany.

The ordeal had taken an enormous toll on her and her family. Their efforts to get her son out of Cuba had cost an enormous amount of time and money. And they had endured two years of anguish fearing—as Morejón put it—that the Cuban government was “trying to sentence my son to live like an orphan with live parents.”³²

Juan López Linares

Cuban physicist **Juan López Linares** traveled with his wife to Italy in 1997 to participate in a training course at the International Center for Theoretical Physics in Trieste. When the course ended, he sought and was denied permission from the Cuban consulate in Milan to continue studies outside of Cuba. The Cuban consular official warned him that, if he did not return to Cuba, he would be formally classified as a “deserter” and would be prohibited from entering Cuba for five years.³³

Despite the warning, López Linares decided to continue his studies abroad, pursuing a doctoral degree in Brazil. His wife returned to Cuba in February 1999 and gave birth to their son two months later. The couple subsequently split up and she chose to remain in Cuba. López Linares began requesting permission to return to Cuba to meet his son in July 2000. His requests have been repeatedly denied.

The clearest explanation of the government's refusal to allow López Linares to return to his homeland came in a letter that Cuba's ambassador to Brazil, Jorge Lezcano Pérez, sent in August 2002 to a Brazilian senator who had intervened in the case. López

³² Letter from María Elena Morejón to Embassy of Cuba, March 1, 2003, <http://www.lanuevacuba.com/nuevacuba/peticion-1.htm> (retrieved April 7, 2003). Translation by Human Rights Watch.

³³ Human Rights Watch email correspondence with Juan López Linares, December 16, 2002; see also Ministerio de Relaciones Exteriores, República de Cuba, “Servicios Consulares,” http://www.cubaminrex.cu/consulares/serv_consintro.htm (retrieved February 21, 2005).

Linares could not return to Cuba, the ambassador wrote, because he had “abandoned an official mission that he was carrying out in representation of a Cuban government agency in a third country.” Such restrictions were justified, according to Lezcano, “to protect national security and dissuade the harmful phenomena of illegal emigration and the theft of brains.”³⁴

The letter went on to accuse López Linares of involvement in “a politically motivated and slanderous campaign” against Cuba, as well as involvement with “extremist organizations...with an extensive history of aggression against the Republic of Cuba, including terrorist actions.” Lezcano offered no details to support these allegations, which López Linares categorically denies. López Linares subsequently wrote the ambassador, challenging him to prove the allegations and requesting copies of the rule or regulation that applied to his case.³⁵ As of this writing, he has not received a response from Ambassador Lezcano.³⁶

López Linares’s son turned six in April 2005. The two have never met.³⁷

José Cohen

José Cohen, a former intelligence officer with the Interior Ministry, fled Cuba on a raft in August 1994. He has been trying to get his wife and three children out ever since. But the Cuban government has refused to grant them permission to leave the island.³⁸

Before leaving Cuba, Cohen’s intelligence work required him to spend time with foreign investors and scientists, possibly giving rise to government suspicions that he had access to sensitive information. In a measure of the government’s anger over Cohen’s defection, his wife and parents were reportedly invited in April 1996 to view an *in absentia* trial in which Cohen was sentenced to death for desertion.³⁹

³⁴ Letter from Jorge Lezcano Pérez, Cuban ambassador to Brazil, to Eduardo Matarazzo Suplicy, Brazilian senator, August 15, 2002. Translation by Human Rights Watch.

³⁵ Letter from Juan López Linares to Jorge Lezcano Pérez, Cuban ambassador in Brazil, September 4, 200. Translation by Human Rights Watch.

³⁶ Human Rights Watch email correspondence with Juan López Linares, February 15, 2005.

³⁷ Human Rights Watch email correspondence with Juan López Linares, July 27, 2005.

³⁸ Human Rights Watch interviews with José Cohen, Miami, Florida, August 17, 2004, April 4, 2005, and May 19, 2005; Human Rights Watch telephone interview with Isaac Levy Cohen and Daysi Cohen, Havana, Cuba, April 21, 2005.

³⁹ Human Rights Watch interview with José Cohen, Miami, Florida, August 17, 2004.



José Cohen has not seen his children in eleven years.

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Cohen reports that in addition to suffering an eleven-year separation from their father, his children have faced harassment and humiliation in school at the hands of teachers, who are generally Communist Party militants. According to Cohen, one teacher instructed his son in middle school to write a paragraph under the title “Fidel is my father.” When his son refused, the teacher reportedly said, “That’s because Bush is your father.” Other teachers have told his children that their father did not love them since he left them behind. Although his daughters have received excellent grades in high school, they have not been allowed to attend any university, apparently because of their father’s “desertion.”⁴⁰

⁴⁰ Ibid.

Denial of Exit Visas

Health Care Professionals

A large portion of the Cubans denied exit visas are doctors and other health care professionals. Of the cases reported to the U.S. Interests Section, roughly half fell into this category.⁴¹

The reason so many health care professionals are denied exit visas is the Public Health Ministry's "Resolution 54"—or at least that is what many of them are told when their petitions are rejected. However no one we interviewed had ever seen the regulation—not even those who requested copies when it was cited to deny them exit visas. "It's like a phantom law," one doctor told Human Rights Watch. "No one has seen it in writing."⁴²

By most accounts, "Resolution 54" requires health care professionals applying for exit visas to wait three to five years before their application will be considered. Some doctors report that the rule specifies they spend these waiting years working in rural communities.

If the actual text of the regulation has been kept from the public, the rationale behind it has not. The restriction is part of a broader effort to prevent a "brain drain" of skilled professionals from Cuba.⁴³ President Castro has accused the United States of actively luring large numbers of skilled professionals from Cuba, "thus depriving our country of medical doctors, engineers, architects and other university graduates who have been educated here, absolutely free of charge."⁴⁴ And he has vowed that Cuba would not tolerate an exodus of professionals, declaring that the country would not be exploited as "an incubator of brains," and that "those [brains] it does incubate are primarily to serve our people and our brother countries in the world that suffer from plundering and poverty, not to fatten the pockets of the plunderers of the world."⁴⁵

⁴¹ Of the 1762 cases reported from 2004 through March 2005, 886 involved health care professionals.

⁴² Human Rights Watch telephone interview with Dr. "Julio Alfaro" (not his real name), West Palm Beach, Florida, May 13, 2005.

⁴³ "Cuba afirma que "controlara" la migración de profesionales a EEUU," *Agence France-Press*, August 31, 2000.

⁴⁴ Speech by President Fidel Castro at a mass rally in the "José Martí" Anti-imperialist Square, Havana, November 27, 2001, http://www.cubaminrex.cu/Archivo/Presidente2001/FC_271101.htm. Translation by Human Rights Watch.

⁴⁵ Speech by President Fidel Castro at the closing of the VI Congress of the Committees in Defense of the Revolution (CDR), in the "Karl Marx" Theater, September 28, 2003, <http://www.cuba.cu/gobierno/discursos/2003/esp/f280903e.html> (retrieved March 30, 2005). Translation by Human Rights Watch.

Yet, as the case of Dr. Hilda Molina above illustrates, this restriction is applied to doctors who have already made significant contributions to Cuba's health care system. And as Dr. Molina's case also demonstrates, one result of the policy is the forced separation of families.

Dr. Edelma Almaguer Pomares, for example, was denied an exit visa in 2004 on professional grounds after winning a U.S. visa through the immigration lottery in June 2003. Earlier in 2004, her husband, who had a U.S. visa that was expiring, had traveled to the United States expecting that Dr. Almaguer and their daughter would soon be able to join him. Under the current regulation, Dr. Almaguer will not be allowed to leave Cuba for another three years.⁴⁶

Similarly, **Arturo Morejón** won a visa to the United States in the lottery and left Cuba in October 2002. His wife, Dr. Rita María Aguilar, has been told that because she is a doctor, she could not leave for another five years.⁴⁷ **Dr. "Jorge Ramos"** fled a medical mission in Venezuela in 2003. His wife and son have been unable to leave Cuba because she, too, is a doctor.⁴⁸

"Roberto Gómez" felt compelled to leave Cuba in August 2001 because, he said, a relative's activities as a political dissident had closed off professional opportunities for everyone in his family. His wife was unable to obtain an exit visa because she is a doctor, so he traveled alone. The couple had planned to have children, but chose to put it off, knowing they faced a separation of at least several years. Unwilling to wait longer, in early 2005 they paid someone to bring her out of the country illegally.⁴⁹

Relatives of "Deserters"

As shown by three of the illustrative cases above (Teresa Márquez and Roberto Salazar, Juan López Linares, and José Cohen), Cuba regularly denies visas to the relatives of "deserters" who have left the country without permission or refused to return at the end of an authorized trip.

⁴⁶ Human Rights Watch telephone interview with Carlos Marrero, husband of Dr. Almaguer, Jacksonville, Florida, April 4, 2005.

⁴⁷ Human Rights Watch interview with Arturo Morejón, Miami, Florida, August 18, 2004.

⁴⁸ Human Rights Watch telephone interview with Dr. "Jorge Ramos" (not his real name), Miami, Florida, February 21, 2005.

⁴⁹ Human Rights Watch telephone interview with "Roberto Gómez" (not his real name), Florida Keys, Florida, May 10, 2005.

Lazaro Betancourt discovered this when he defected from Cuba in 1999 after having served in the government's security service for twenty years. The United States immediately granted him asylum and, within six months, extended it to his wife and nine-year-old son in Cuba. The Cuban government, however, would not allow them to leave the island. From his time working for the government, Betancourt believes that any former member of the military must wait five years before getting his or her family out. Nonetheless, more than five years have passed since he left, and there is still no sign that his wife and son will be able to leave. Although Betancourt has written repeatedly to the Cuban Foreign Ministry about his family, he has never received a reply.⁵⁰

Betancourt's wife and son weren't the only family members affected, he says. In 2001, Betancourt's sister, Maydelín Betancourt Morín, won a visa to the United States through the immigration lottery. Her husband and two children automatically received visas as well. However, the Cuban government granted exit visas to her husband and their children, but not to Maydelín herself. Betancourt told Human Rights Watch that officials at Cuba's Foreign Ministry had told his sister that she would not be granted permission to travel because her brother was a "traitor."⁵¹



Joel Brito's wife and daughter were separated from him for six years.

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Joel Brito had a similar experience after defecting in 1997. Brito, who was a senior functionary in the official trade union, the Workers Central of Cuba (*Central de Trabajadores de Cuba, CTC*), had left the country legally to attend a labor conference in Bolivia, but chose not to return, and found his way instead to the United States.

His wife and ten-year-old daughter obtained visas to enter the United States, but were denied permission to leave by the Cuban government. According to Brito, the only explanation his wife received from the government that hers was "a special case."⁵²

⁵⁰ Human Rights Watch telephone interview with Lazaro Betancourt, Miami, Florida, August 20, 2004.

⁵¹ Ibid.

⁵² Human Rights Watch telephone interviews with Joel Brito, Miami, Florida, August 17, 2004, and April 13, 2005.

Brito launched a campaign to get his family out, which entailed repeated letters to Fidel and Raul Castro, as well as appeals for help from international labor and human rights organizations. His wife also appealed directly to her husband's former colleagues at the CTC. Finally, in 2003, after six years of campaigning, the government relented and granted the two exit visas—though it never provided an explanation for the permission being granted then and not earlier.⁵³

The denial of exit visas to the relatives of “deserters” is hardly a new policy in Cuba. One well-known case dates back to 1980, when Cuban jazz artist **Paquito D’Rivera** defected during a tour of his jazz ensemble in Madrid in 1980. D’Rivera sought permission for his wife and son to join him, but the Cuban government denied them exit visas. For nine years, D’Rivera persisted in seeking permission, but was repeatedly rebuffed, without any explanation. He was only able to get them out in 1989 by bribing some officials.⁵⁴

Another musician who suffered a lengthy separation from his family is composer **Jorge F. Rodríguez**, who obtained a six-month visa to travel to Mexico in 1992 and chose to stay there. Twice during his time in Mexico, Rodríguez appealed to Cuban officials to allow his wife and eleven-year-old daughter permission to join him. Although the Mexican government gave the family visas, Cuban authorities would only allow Rodríguez’s wife to leave. Unwilling to abandon their daughter, his wife remained in Cuba until, after a three-year separation, they were finally able to escape illegally in 1995.⁵⁵

In 2000, **Dr. Leonel Cordova** fled a medical mission in Zimbabwe and traveled to the United States, where he was granted asylum. He petitioned for permission for his wife and two children, four and eleven years old, to leave Cuba and join him. Only after his wife was killed in a car accident the following year, and members of the U.S. Congress intervened, were his children granted exit visas.⁵⁶

Joel Moreno Molina, a computer science professor in Havana, went to Peru as part of a government agreement in March 1999 to teach at the Peruvian University of Sciences (*Universidad Peruana de Ciencias*). When his stay was supposed to end in January 2001,

⁵³ Ibid.

⁵⁴ Human Rights Watch telephone interview with Paquito D’Rivera, Weekawken, New Jersey, May 11, 2005.

⁵⁵ Human Rights Watch telephone interview with Jorge Rodríguez, Hackensack, New Jersey, May 5, 2005.

⁵⁶ “Castro holds children hostage,” *TNA News with Commentary*, June 23-24, 2001, <http://www.newaus.com.ua/news254castro.html> (retrieved November 19, 2002).

Moreno decided to remain in Peru and, after marrying a Peruvian, he obtained Peruvian residency in July 2001. Expecting their first child in November 2002, Moreno and his wife made plans for Moreno's mother to come from Cuba to help them at the time of the birth. His mother began the paperwork to obtain an exit permit several months before the anticipated birth. Her employer, the Public Health Ministry, gave her permission to travel, and the Peruvian government gave her a Peruvian resident's card in July 2002 because she was Moreno's mother. Nonetheless, according to Moreno, Cuban migration authorities refused to allow her to leave on the grounds that she was the mother of a "deserter." They told her she must wait three years. They finally allowed her to travel in March 2003, almost four months after the birth.⁵⁷

Children of People Abroad

The Cuban government also denies exit visas to the children of people whose travel abroad has been officially authorized. The policy appears to be aimed at discouraging those travelers from defecting. "**Elena Vargas**," for example, was required to leave her ten-year-old daughter behind in Cuba when she went to work in Mexico and then Peru in the 1990s as part of governmental agreements with universities in those countries. While in Peru, she remarried and decided to stay. But she was unable to get permission for her daughter to join her. Although she was able to visit the daughter in Cuba, she was unable to bring the child to live with her. The child died in an accident on December 30, 2000.⁵⁸

Zaida Jova and **Vicente Becerra** are Cuban engineers who traveled to Brazil in 1997 for postgraduate work. Like Elena Vargas, the couple was obliged to leave their seven-year-old daughter, Sandra, in Cuba, they say, as a condition of their travel.⁵⁹ After the birth of their second child, the couple decided to remain in Brazil permanently. The government of Brazil automatically extended residence status to all members of the family, including Sandra, as part of a policy of keeping families together. Havana, however, refused to allow Sandra to leave. After the intervention of the Brazilian government, the Inter-American Commission on Human Rights, and others, Sandra was finally allowed to reunite with her parents in June 2001, after a four-year separation.⁶⁰

⁵⁷ Human Rights Watch telephone interview with Joel Moreno Molina, Lima, Peru, March 30, 2005.

⁵⁸ Human Rights Watch telephone interview with "Elena Vargas" (not her real name), Lima, Peru, April 13, 2005.

⁵⁹ Agustín Blázquez, "Sandra," *Cuba InfoLinks news & information services*, 2001, <http://www.cubainfolinks.net/Articles/sandra.htm> (retrieved November 7, 2002).

⁶⁰ Ibid; Inter-American Commission on Human Rights, Annual Report 2001, Chapter IV(a) Cuba, para. 14; Vicente Becerra and Zaida Jova, "Sobre la llegada de nuestra hija cubana Sandra a Brasil: declaración de gratitud y esperanza," <http://www.cubdest.org/0106/csanzyv.html> (retrieved February 21, 2005).

Denial of Entrance Visas

As the illustrative case of Juan López Linares above shows, in addition to denying exit visas, the Cuban government denies entrance visas to some people after they have left. **Dr. Ramón Martínez Martínez**, for example, reported that the Cuban government had refused to allow him to return to Cuba to visit his young children whom he has not seen since he left in 1998. Dr. Martínez, a plastic surgeon, traveled to Argentina on December 13, 1998, to visit friends, and then decided to stay. His second wife and child soon joined him. Dr. Martínez's first wife had died, and Dr. Martínez left their two children—eleven and seven—with their maternal grandparents, in keeping with their mother's wishes. For the past seven years, Dr. Martínez has been unable to gain permission to return to Cuba to visit his children.⁶¹ Officials at Cuba's consulate in Buenos Aires reportedly told Dr. Martínez that his return to Cuba would be barred "indefinitely."⁶² Had he known that he would not be able to see his children for so long, Dr. Martínez said he would never have left.⁶³

Similarly, **Joel Moreno Molina**, mentioned above, has been repeatedly denied entrance visas to Cuba to visit his family after he overstayed his authorized travel period in Peru. Cuban authorities in Peru told him he would have to wait five years because he was now classified as a "deserter." In October 2004, Moreno again sought an entrance visa, hoping to celebrate the birthday of his second child with his parents. But the embassy once again informed him that he could not return until five years had passed.⁶⁴

The Impact of Cuba's Travel Restrictions

The Toll of Forced Separation on Families

The forced separation that results from Cuba's travel policies can cause profound hardship for children separated from their parents. **Lazaro Betancourt**, for example, reported that his fifteen-year-old son has seen a psychiatrist for help with emotional problems prompted by the absence of his father.⁶⁵ So, too, has the son of **María Elena Morejón**, upon reaching Germany after a nearly two-year separation from his parents.

⁶¹ Letter from Dr. Ramón Martínez Martínez, forwarded to Human Rights Watch from Juan López Linares, August 11, 2004; and "Silencio de Cuba en el caso de un médico," *Clarín*, July 22, 2004, <http://old.clarin.com/diario/2004/07/19/sociedad/s-03402.htm> (retrieved February 21, 2005).

⁶² "Desde Cuba, reclaman que un médico pueda visitar la Isla para ver a sus hijos," July 29, 2004, *infobae.com*, http://www.infobae.com/notas/nota_imprimir.php?Idx=129324 (retrieved January 31, 2005).

⁶³ "Silencio de Cuba en el caso de un médico," *Clarín*, July 22, 2004.

⁶⁴ Human Rights Watch telephone interview with Joel Moreno Molina, Lima, Peru, March 30, 2005.

⁶⁵ Human Rights Watch telephone interview with Lazaro Betancourt, Miami, Florida, August, 2004.

The separation can also have a powerful impact on adults. During her separation from her son, Morejón described her feelings in a letter to U.N. Secretary General Kofi Annan:

I struggle between my desperation to see my son and my indignation at having our rights violated: the right of a mother and son to be together, so see the laughter on his innocent face, to dry his tears and comfort him when he cries, to educate him close to me and do what it takes to turn him into a good man as I always dreamed. But worse still, I feel the immense pain of seeing my child's right to grow up, educate himself, and be nourished by his mother ignored.⁶⁶

Cuban dissident **Rafael León Rodríguez**, who can't visit his children and grandchildren in the United States, told Human Rights Watch: "It is very painful. It's as if they have cut off your roots," he said, adding that the most difficult aspect is never having been able to meet his grandchildren.⁶⁷

Ortelio Vichot, a veterinarian who left Cuba in 1981, told Human Rights Watch that he had been trying to get his son out of the country since 1996. He obtained a U.S. visa for him but, despite repeated efforts on his own part, he has been unable to get the Cuban government to grant his son permission to leave. Although neither he nor his son have received written responses from Cuban authorities, they understand that the reason his son has been denied permission to leave is because he is a doctor by training, even though he no longer practices medicine. "Imagine the anxiety," Vichot told Human Rights Watch, "For so many years trying to reunite with my son and all the false hopes! I have lived through tremendous frustration."⁶⁸

"Javier Sánchez" traveled to South Africa in February 1997 as part of Cuba's program of medical cooperation with that government. After overstaying his travel authorization, he was declared a "deserter," preventing him from returning to Cuba and cutting him off from his ten-year-old daughter. In October 2002, the girl's mother died in a car accident, and Sánchez submitted a request for his daughter to join him permanently in

⁶⁶ Letter from María Elena Morejón to U.N. Secretary General Kofi Annan. Undated.

⁶⁷ Ibid.

⁶⁸ Human Rights Watch interview with Ortelio Vichot, Miami, Florida, April 20, 2005.

South Africa. Although South Africa promptly granted his daughter a visa, the Cuban authorities would not allow her to leave for another three years.⁶⁹

Sánchez described the difficulties of becoming an unintentional “deserter”:

It really is not easy to become an exile. You miss the place where you were born, your family, and your friends. You live permanently as a stranger. You are forcibly separated from your family. ... It was particularly difficult in our case because a minor had lost the most important person in her life and could not get together with the other most important person. Everything could have been resolved so easily, but it was not possible.⁷⁰

Even when families are eventually reunited, the forced separation can leave lasting scars. Several people we interviewed reported that their marriages were destroyed by their separation. Others described the lost intimacy with children who have grown up without knowing one or both of their parents.

Paquito D’Rivera, for example, described the impact his forced separation from his family had on his marriage in his autobiography:

It was the year of 1981 and I was walking the streets of New York with my soul broken for my absent son, desperate over the imminent rupture of my marriage as a result of the distance, the threats from Cuban authorities to my wife that they would not let her leave the country. ...⁷¹

The forced separation would eventually lead to divorce and distance him from his son. “I lost my marriage and the childhood of my son,” D’Rivera told Human Rights Watch. “That’s why my son is almost like a stranger to me. We have a good relationship, but it’s like friends, only not very close friends.”⁷²

⁶⁹ Human Rights Watch telephone interview with “Javier Sánchez” (not his real name), Cape Town, South Africa, July 6, 2005.

⁷⁰ Ibid.

⁷¹ Paquito D’Rivera, *My Vida Saxual* (Editorial Plaza Mayor: San Juan, 1999), pp. 49-50. Translation by Human Rights Watch.

⁷² Human Rights Watch telephone interview with Paquito D’Rivera, Weekawken, New Jersey, May 11, 2005.

Blanca Reyes intended to leave Cuba with her husband and nine-year-old son in 1980, but instead stayed behind with the child when the government denied him permission to travel. Their plan was for her husband to get out and then seek permission to bring his wife and child to join him. But the government would not allow her son to leave the country until 1993. By then, the separation had destroyed their marriage, according to Reyes, who blames the Cuban government for their eventual divorce. “Fidel Castro divorced us. ... We had no alternative, we separated because Fidel obliged us to separate. ... The distance between Miami and Havana is immense.”⁷³

Reyes also believes the separation did great emotional harm to her son. “What hurt me most,” Reyes told Human Rights Watch, “was the pain my son had to go through. The boy was left without a father. ... The boy was barely four years old and before the separation from his father he was a very happy boy. After all these things happened he became a serious boy.”⁷⁴

Reyes’ son, **Miguel Ángel Sánchez Reyes**, described the lasting impact this forced separation had on his relation with his father:

I’m a guy who was raised without his father. And when you don’t know how your papá is, you idealize him and when you see him it’s possible he’s like you thought and it’s possible he isn’t. ... I stopped seeing [my father] when I was nine years old and I saw him again when I was twenty-one. And at that age it’s difficult to reconnect with your father and it’s very difficult to create that father-son link. Even though we have a good relationship, it’s difficult.⁷⁵

The High Costs of Reunification Attempts

In addition to the emotional hardship of separation, efforts to circumvent the restrictions can prove very costly. In several of the cases we documented, Cubans felt obliged to pay bribes to get out.⁷⁶ And, as the case of **Paquito D’Rivera** illustrates, the bribes often were not enough. The night before his wife and son were scheduled to fly

⁷³ Human Rights Watch telephone interview with Blanca Reyes, Havana, Cuba, May 4, 2005.

⁷⁴ Ibid.

⁷⁵ Human Rights Watch telephone interview with Miguel Ángel Sánchez Reyes, Miami, Florida, May 9, 2005.

⁷⁶ Human Rights Watch interview with Joe García, then-executive director, Cuban American Foundation, Miami, Florida, August 17, 2005; telephone interview with Isaac Levy Cohen and Daysi Cohen, Havana, Cuba, May 19, 2004; Human Rights Watch telephone interview with “Roberto Gómez” (not his real name), Florida Keys, Florida, May 10, 2005; Human Rights Watch telephone interview with Paquito D’Rivera, Weekawken, New Jersey, May 11, 2005.

to Miami, police barged into their home and took away their passports. D’Rivera responded by making “a very big scandal around the world.” He bought a fax machine and began sending letters to newspapers “all over the planet” until, after several weeks of intense publicity, the government returned their passports. D’Rivera finally was able to meet them in Miami in January 1989.⁷⁷



Paquito D’Rivera is reunited with his son after a nine-year separation.

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Others have taken even more desperate measures to get their family members out of Cuba. One of the most dramatic cases involved **Orestes Lorenzo Pérez**, a pilot with the Cuban Air Force who defected in 1991 by flying a MIG-20 jet to Key West, Florida, while on a training flight.⁷⁸ Shortly after arriving in Florida, Lorenzo launched a campaign to bring his wife and sons, ten and six, to the U.S. Although he obtained visas for the three to come to the U.S., the Cuban government refused to grant them exit visas. Lorenzo then launched an international campaign to pressure the Cuban government to release his family, presenting his case to President George H.W. Bush and conducting a hunger strike in Spain.⁷⁹

⁷⁷ Human Rights Watch telephone interview with Paquito D’Rivera, Weehawken, New Jersey, May 11, 2005.

⁷⁸ Human Rights Watch telephone interview with Orestes Lorenzo Pérez, Osceola, Florida, May 2, 2005; Javier González Muruato, “La mirada de Orestes Lorenzo,” *El Siglo de Torreón*, May 1, 2005.

⁷⁹ Mike Wilson, “Daring Act of Love Focuses Public’s Eye on Cuba,” *The Miami Herald*, January 2, 1993, and Deborah Sharp and Sandra Sanchez, “Pilot Swoops family out of Cuba,” *USA Today*, December 21, 1992.

Despite all his efforts, government officials told his wife that the family would never be allowed to leave the country. So Lorenzo decided to take a drastic action. He borrowed a small plane and sent word to his family through a messenger to wait for him on a well known bridge along the coastal road east of Havana in Northern Matanzas province. At an agreed time, he landed his plane on the road, picked up his family, and returned to the U.S. “It was a chance in a million,” he told *NotiSur*, “to be able to sneak into Cuba is possible, but to land on a busy roadway ... between cars, was indeed a miracle. ... The possibility of being captured or gunned down was a high risk, but the liberty of my children was worth it.”⁸⁰

Many thousands of others have opted for a risky escape on the high seas. A well-known recent example is that of **José Contreras**, now a pitcher in Major League Baseball, who defected from Cuba in October 2002, but was unable to get his wife and young children permission to leave. Officials of the Cuban government reportedly told Contreras’s wife



José Contreras is reunited with his wife and two daughters after a two-year separation.

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⁸⁰ “Two Groups of Cubans Flee Island by Plane,” *NotiSur*, January 1, 1993.

that she and their daughters, eleven and three, would have to wait five years for an exit visa.⁸¹ On June 20, 2004, however, the three secretly boarded a thirty-one foot boat with eighteen other Cubans and fled to the United States. They reached South Florida the next morning, allowing Contreras to reunite with his family after a two-year separation.⁸² Scores of Cubans have drowned attempting such escapes.

Travel Restrictions as Political Coercion

The right to leave a country is an essential ingredient of liberty. It allows individuals to escape repressive political systems. For many Cuban exiles, leaving the island appeared to be the only way to obtain basic political freedoms that they lacked in Cuba. **Orestes Lorenzo Pérez**, for example, told Human Rights Watch that what drove him to attempt his daring escape was his sense that, in Cuba, “your fate is in the hands of an all-powerful person,” Fidel Castro. “You are not the protagonist in your own life. ... You are not the owner of your destiny.”⁸³

Dr. Hilda Molina described the impact that the fear of informers has on daily life. “In Cuba, there is a generalized mask, because you either are with the regime or you pretend to be.”⁸⁴

For health care professionals, the restrictions on travel create a particularly acute sense that they are being deprived their basic freedoms. As one doctor who left Cuba put it: “You wonder what good your studies have done you. Why study? Instead of benefiting, your studies harm you. ... You feel like a prisoner, as if you had committed a crime.”⁸⁵

Moreover those health care professionals who do apply for permission to leave Cuba must then endure the stigma of being a “deserter” during the three to five (or even more) years they await their visa. “The professional exposes himself to being called ‘traitor,’ ‘*gusano*,’” one exiled doctor explained. “Because obviously from the moment you say you want to leave there comes all the propaganda against you.”⁸⁶

⁸¹ “NY Yankees Pitcher José Contreras feels betrayed by Castro,” *Havana Journal*, February 19, 2004, http://havanajournal.com/culture_coments/P1432_0_3_0/ (retrieved January 30, 2005).

⁸² “Contreras’ [sic] wife, two daughters are in Florida,” *ESPN News Service*, June 22, 2004, <http://sports.espn.go.com/espn/print?id=1826440&type=story> (retrieved January 30, 2005).

⁸³ Human Rights Watch telephone interview with Orestes Lorenzo, Osceola, Florida, May 2, 2005.

⁸⁴ Human Rights Watch telephone interview with Dr. Hilda Molina, Havana, Cuba, April 18, 2005.

⁸⁵ Human Rights Watch telephone interview with Dr. “Julio Alfaro,” West Palm Beach, Florida, May 13, 2005.

⁸⁶ Human Rights Watch telephone interview with Dr. Alfredo Melgar, Miami, Florida, April 22, 2005.

The restrictions can also serve as a way of coercing collaboration with the government. **Carmen Delia Llano Ochoa** suffered house arrest several times in Cuba as a dissident. In 2001, Llano paid a “coyote” who bribed migration officials to purge her files of information about her political activities. This enabled her to leave the island on December 22, 2001, and seek political asylum in Canada. Although Canada granted residency status to Llano, her husband, and her eight-year-old son, Cuba initially refused to allow the latter two to leave the island. Instead, Llano reports, officials at the Cuban Consulate in Montreal tried to compel her to identify government opponents as a condition for getting her family out. Enraged, Llano staged a protest at the Cuban consulate from October 20 until December 10, 2004. On December 12, Havana relented and allowed her son and husband to leave.⁸⁷

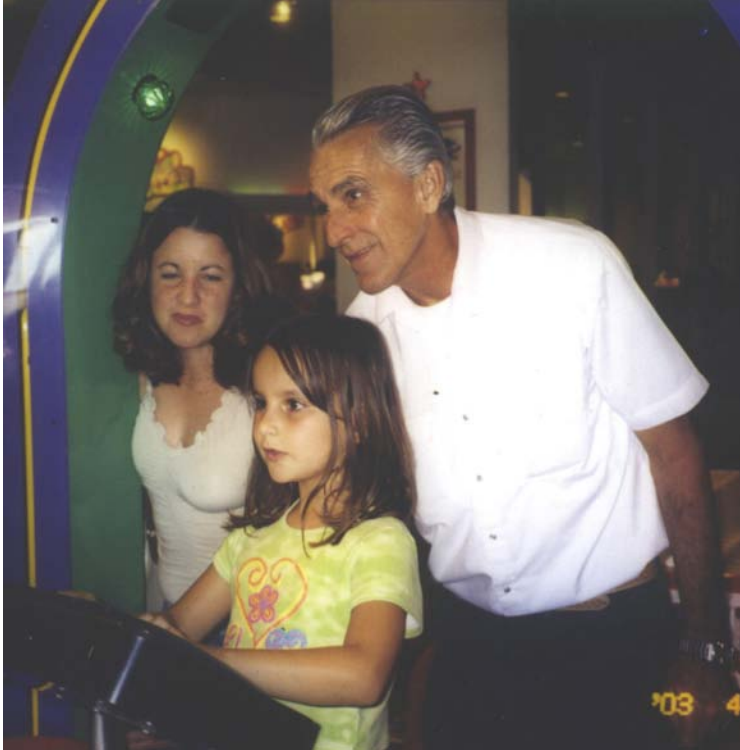
In addition to serving as a way of coercing compliance, the travel restrictions can serve as a form of punishment for political opponents. **Rafael León Rodríguez**, for example, a fifty-nine-year-old political activist, has been unable to leave despite the granting of a U.S. visa in 2000. He has made repeated requests for an exit visa so that he could visit his three children and four grandchildren who live in Miami. The children left Cuba with his former wife in 1980. He has never met the grandchildren. His requests for exit visas have been ignored or rejected. He reports that the authorities have indicated to him that these rejections are due to his political activity with the opposition group, the Cuban Democratic Project (*Proyecto Democrático Cubano*).⁸⁸

Similarly, dissident **Edgardo Llompart** faced separation from his nineteen-year-old daughter as punishment for his opposition activities and refusal to cooperate with the government. Llompart was among several dissidents freed from prison in 1991 after being convicted of rebellion for organizing an independent political movement in the 1980s. When he was freed, Llompart was offered a choice: cooperate with the government or go into exile. The authorities allowed him to take his son and wife to the United States, but refused permission for his daughter, Ibet Llompart, to leave for another ten years. “My emotional and physical life were very much affected” by the separation, Llompart told Human Rights Watch. “Every time we served a plate of food, knowing that our daughter was far away and not at our side was very hard. ... These wounds never heal.”⁸⁹

⁸⁷ Human Rights Watch telephone interview with Carmen Delia Llano Ochoa, Montreal, Québec, Canada, January 31, 2005.

⁸⁸ Human Rights Watch telephone interview with Rafael León Rodríguez, Havana, Cuba, April 28, 2005.

⁸⁹ Human Rights Watch interview with Edgardo Llompart, Miami, Florida, April 27, 2005.



"These wounds never heal," Edgardo Llompart said of his ten-year separation from his daughter (seen here with her daughter).

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The threat of separation is compounded by the harassment of family members left behind, who face a wide range of forms of persecution, from layoffs to social repudiation. **Joel Brito's** wife, for example, was fired from her job as budget director for the city of Havana after Brito stayed outside of Cuba following a conference in Bolivia. According to Brito, his wife faced frequent insulting phone calls urging her to publicly denounce her husband, something she

steadfastly refused to do. State security agents interviewed her for several hours about her husband, pressuring her to call him a traitor, and telling her, falsely, that Brito had found a new wife and was starting a new family in the U.S.⁹⁰

Composer **Jorge F. Rodríguez** told Human Rights Watch that his wife and daughter suffered persistent harassment after he left them in Cuba. They were forced to leave their apartment because of the hostility of their neighbors. His daughter's classmates at school taunted her, saying that her father was a traitor. Security officials detained his wife on multiple occasions and told her that she would never see Rodríguez again. His wife's salary was lowered, leading her eventually to quit her job.⁹¹

Miguel Ángel Sánchez Reyes told Human Rights Watch about the stigma he felt as the son of a "deserter":

⁹⁰ Human Rights Watch interview with Joel Brito, Miami, Florida, August 17, 2005.

⁹¹ Human Rights Watch telephone interview with Jorge Rodríguez, Hackensack, New Jersey, May 5, 2005.

At first I thought my father was a traitor. You have to deal with ... the fear that those people around you will find out that your father has deserted Cuba. You don't tell people. If they ask where your father is, you say that he's not here, or that your father separated from your mother but you never say that he left Cuba because you have a gigantic fear of rejection ... by other students and by society. The people who know you reject you because you are the son of a deserter. They won't get together with you. I was always afraid I'd run into people in the street and they'd stop me and say something so that soon more people would find out who my father was. It's the fear of rejection. And at the same time, it is difficult to dissemble and pretend you're happy.⁹²

In the course of researching this report, Human Rights Watch encountered numerous people who were afraid to speak to us about their cases, even when assured anonymity. One of the principal fears that these and other Cubans had was that they or their relatives would be denied permission to leave or enter Cuba. "I ask you not to use my name," one woman in Miami said at the end of one interview, "because my mamá is still in Cuba and I'm going to visit her next year. ... I don't want them to prevent me from going and they'll say to me, 'You were saying things, you were talking.'"⁹³

Similarly, "**Elena Vargas**" told Human Rights Watch that she did not want her name to be made public in this report because she feared that her family would be subject to harassment. "In Cuba there is a lot of fear," she said. "Fear of knowing, fear of showing solidarity, fear of what people may find out. When you are in Cuba you don't want to know what happened or you don't want them to think you are an accomplice because you don't want them to leave you without soap, without cooking oil."⁹⁴

Dr. Hilda Molina provided Human Rights Watch with details of three additional cases—and said she knew of many more—involving acquaintances who were denied exit visas but told her they were unwilling to be interviewed out of fear of the possible negative consequences. "It's a form of psychological blackmail," she said. "They think that if they shut up and please the government maybe someday the government will give them permission [to travel]."⁹⁵

⁹² Human Rights Watch interview with Miguel Ángel Sánchez Reyes, Miami, Florida, May 9, 2005.

⁹³ Human Rights Watch telephone interview, Miami, Florida, May 6, 2005.

⁹⁴ Human Rights Watch telephone interview with "Elena Vargas" (not her real name), Lima, Peru, April 13, 2005.

⁹⁵ Human Rights Watch telephone interview with Dr. Hilda Molina, Havana, Cuba, June 7, 2005.

Forced separation is, in other words, one of the most effective tools for preventing people from talking about the travel restrictions, or criticizing other policies of the Cuban government. As rights advocate **Rafael León Rodríguez** put it, “The threat of denying permission to travel is a weapon of deterrence used to intimidate, repress, and control various types of activities.”⁹⁶

⁹⁶ Human Rights Watch telephone interview with Rafael León Rodríguez, Havana, Cuba, April 28, 2005.

III. U.S. Travel Restrictions

Background

Past Travel Restrictions

Since shortly after Fidel Castro came to power in 1959, the United States has used a combination of covert and overt measures aimed at ousting him, including numerous assassination attempts. The most enduring of these measures has been the U.S. trade embargo, which has remained in place for more than forty years.⁹⁷

Travel restrictions to Cuba, a central component of the embargo, date from a January 16, 1961, notice issued by the State Department that proclaimed travel to Cuba by U.S. citizens to be “contrary to the foreign policy of the United States and ... otherwise inimical to the national interest.” Since that day, travel restrictions have been alternately tightened and eased at different moments by successive administrations.

Under the 1961 State Department notice, anyone traveling to Cuba was required to receive a specific endorsement in his or her passport from the State Department. A 1967 U.S. Supreme Court ruling held that travel without a specifically endorsed passport did not constitute a crime under the relevant statute.⁹⁸ However, Treasury Department regulations barring financial transactions related to travel to Cuba, promulgated in 1963 under the Trading With the Enemy Act of 1917, are criminally enforceable. Consequently, those who travel to Cuba without a Treasury Department license can be prosecuted for their use of U.S. currency in Cuba—a technicality which enables the U.S. to restrict travel to Cuba under the guise of limiting financial transactions. These measures have endured as the principal means of restricting U.S. travel to Cuba. The Treasury Department grants some licenses to travel, but the categories of these exceptions have been narrowed or broadened at different points over the past four decades.⁹⁹

⁹⁷ For a discussion of the embargo's ineffectiveness and its negative impact on human rights, see “Cuba: Human Rights and U.S. Policy,” Statement by Tom Malinowski, Washington Advocacy Director, Human Rights Watch, before the Senate Committee on Finance, September 4, 2003; “Time to End the U.S. Embargo on Cuba,” Human Rights Watch press release, May 17, 2002, available at: <http://hrw.org/english/docs/2002/05/17/cuba3982.htm>.

⁹⁸ *United States v. Laub*, 385 U.S. 475 (1967).

⁹⁹ Mark P. Sullivan, “Cuba; U.S. Restrictions on Travel and Remittances,” Congressional Research Service Report for Congress, May 10, 2005.

Family-related travel is one of the exceptions that has existed on and off since the 1970s. As part of a broader initiative in U.S.-Cuban relations, President Carter let the entire travel ban lapse in 1977, but restrictions were re-imposed in 1982 by President Ronald Reagan. While the Reagan administration banned most travel to Cuba, its new regulations did permit family-related travel to continue. In response to the rafters crisis of 1994, President Clinton suspended the general license for family travel, but then restored it in late 1995, as part of an effort to broaden people-to-people contacts between Cuba and the United States. In 1999, along with other measures to ease the travel ban, expand charter flights, and increase people to people contact, the Clinton administration dropped a requirement that family visits, whether on general or specific licenses, must respond to “extreme” humanitarian need. Cuban-American family visits to Cuba increased significantly in the second half of the 1990s.¹⁰⁰

President George W. Bush initially continued the trend of easing the requirements for family-related travel, introducing, in March 2003, new regulations that established a general license, which allowed individuals to travel to Cuba to visit family once a year, without requiring them to seek special permission. The 2003 regulations also allowed individuals to apply for specific licenses to make additional visits each year, and allowed visits to relatives “no more than three generations removed from that person or from a common ancestor.”¹⁰¹

New Restrictions on Family-Related Travel

In 2004, President Bush’s Commission for Assistance to a Free Cuba released a report that found, among other things, that a chief beneficiary of Cuban travel to and from the island is Fidel Castro himself. “[T]he regime,” it concluded, “has effectively been provided an institutionalized safety valve for Cuban discontent with an accompanying revenue generator.”¹⁰² By attaching high fees to the various transactions involved in travel, and by requiring Cubans to buy in government-owned stores in Cuba, Castro has turned this travel “into a significant cash windfall to the regime.”¹⁰³ The commission estimated that, in 2003, roughly 125,000 people traveled to Cuba to visit relatives (with some 31,000 making multiple trips) and the Cuban government was able to generate \$96.3 million in hard currency from these visits.¹⁰⁴ As a result, the commission asserted, “it is the Cubans who recently migrated who have become one of the largest sources of

¹⁰⁰ Ibid.

¹⁰¹ 31 CFR 515.561(d)(2003).

¹⁰² Commission for Assistance to a Free Cuba, “Report to the President,” May 2004, p. 38.

¹⁰³ Ibid., p. 34.

¹⁰⁴ Ibid., p. 36.

funds and goods to the island.”¹⁰⁵ Strengthening the embargo, the commission recommended, required reining in this travel.

So in June 2004, the administration established new regulations for family-related travel. Under these regulations, individuals can only visit Cuba under specific licenses, which can only be granted once every three years. Specifically, individuals are prohibited from traveling to Cuba to visit family members if, within the previous three years, they have emigrated from Cuba, or returned from travel to Cuba under the general license program, or received a specific license to visit family. The visit cannot last more than fourteen days.¹⁰⁶

The regulations also limit the definition of “immediate family” to mean “any spouse, child, grandchild, parent, grandparent, or sibling of that person or that person’s spouse, as well as any spouse, widow, or widower of any of the foregoing.”¹⁰⁷ Excluded are aunts, uncles, nephews, nieces, cousins, and other such relatives, no matter what role such persons might have played in an individual’s life before the separation. The new regulations also prohibit individuals from sending money or care packages to anyone other than a parent, grandparent, child, grandchild, sibling or spouse. They also limit the quantity and frequency of such gifts per receiving household, where before they had been limited per individual (allowing people to send multiple gifts to single households, as well as to non-relatives).¹⁰⁸

Unlike past travel restrictions, the new regulations allow for no exceptions. Individuals who violate the restrictions on visits to relatives may be subject to penalties of \$4000 if they have received prior notification from the Treasury Department’s Office of Foreign Assets Control (OFAC), and \$1000 if they have received no such prior notice.¹⁰⁹

In early 2005, Human Rights Watch conducted interviews with twenty-five Cubans living in the United States who have been unable to obtain permission to visit their families in Cuba since the new restrictions went into effect. These cases illustrate the profound hardships that enforced separation can cause families. Knowledgeable sources in the Cuban American community in Miami estimate that hundreds of other families have suffered similar problems due to the new travel restrictions. The director of a

¹⁰⁵ Ibid., p. 38.

¹⁰⁶ 31 CFR 515.561(a).

¹⁰⁷ 31 CFR 515.561(c).

¹⁰⁸ 15 CFR 740.12(a)(2)(v)(A).

¹⁰⁹ 68 CFR 4422 at 4429.

Miami-based travel agency that specializes in travel to Cuba told Human Rights Watch: “Not a day goes by without someone coming in anxious, crying, desperate to visit their family.”¹¹⁰

Illustrative Cases

Marisela Romero

Before the new travel restrictions went into effect, **Marisela Romero**, fifty-three, had been visiting Cuba several times a year to help her eighty-seven-year-old father, who was in the advanced stages of Alzheimer’s disease and incapable of taking care of himself. He needed help eating and regularly urinated on himself, requiring others to change his sheets, his clothes, and the diapers he was forced to wear.¹¹¹



Marisela Romero's last visit with her father. "Whenever she came he became very contented," her nephew's wife recalled. "Because even though he had Alzheimer, he knew who she was."

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¹¹⁰ Human Rights Watch telephone interview with director of Miami-based travel agency, Miami, Florida, February 1, 2005.

¹¹¹ Human Rights Watch telephone interview with Marisela Romero, Miami, Florida, March 9, 2005.

Romero had left Cuba in 1992, and after her mother and sister both died in 2002, the only remaining relatives who could take care of her ailing father were her nephew and his wife. Romero hired two people to help them and began making frequent trips to Cuba so that she could pay these helpers, bring money and supplies, and, perhaps most importantly, provide her father with filial affection. “Whenever she came he became very contented,” Marisol Claraco, her nephew’s wife, told Human Rights Watch. “Because even though he had Alzheimer, he knew who she was. ... She would lie next to him and talk to him, and he would feel her love and get better.”¹¹²



“We were desperate,” the wife of Romero’s nephew recalled. “We saw him deteriorate day by day, and she wasn’t able to come, and we couldn’t do anything. We were suffering on this side and she was suffering on that side.”

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The new restrictions put a halt to her visits. Since her last trip had been in May 2004, she would not be eligible to visit her father again until 2007. The regulations also effectively prevented her from sending money for his medical care and other expenses. While she was still allowed to send remittances to members of her “immediate family,” the only relative in Cuba who fit that definition was her father, and he was incapable of cashing checks or even signing

them over to someone else. (Under the regulations, her nephew did not qualify as a member of her “family.”) It also became much more difficult and expensive to send supplies as it became harder to find other people traveling to Cuba and willing to carry goods for her.¹¹³

Ms. Romero’s absence was felt by her nephew and his wife. “After the restrictions,” Claraco told Human Rights Watch, “I was alone with the old man and my husband was in charge of going and finding what medicines he could. We were waiting for Mari to

¹¹² Human Rights Watch telephone interview with Marisol Claraco, Havana, Cuba, February 25, 2005.

¹¹³ Human Rights Watch telephone interview with Marisela Romero, Miami, Florida, March 9, 2005.

FROM : CBJIMAR EXPRESS

PHONE NO. : 305 512 9233

JAN. 27 2005 04:24PM P1

File - Daniel Wilkinson



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 15 2004

CM-92776

Marisela Ruiz Gonzalez de Romero
7867 W 36 Avenue Unit 104
Hialeah, FL 33018

Dear Marisela Ruiz Gonzalez de Romero:

This is in response to your application dated September 07, 2004, requesting authorization to engage in travel-related transactions involving Cuba for the purpose of a family visit.

The Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the "Regulations"), prohibit all persons subject to U.S. jurisdiction from dealing in property in which Cuba or a Cuban national has an interest, including all Cuba travel-related transactions, unless authorized in accordance with current licensing policy. Under § 515.561(a) of the Regulations, specific licenses may be issued authorizing certain travel-related transactions for the purpose of visiting a member of a person's immediate family who is a national of Cuba, provided it has been at least three years since the most recent of the following three dates: (a) the date of emigration, if the applicant emigrated from Cuba; (2) the date the applicant left Cuba after the applicant's most recent trip to visit family there pursuant to a general license; (c) the date of issuance of the applicant's most recent specific license to visit family in Cuba.

We have reviewed your application and determined that the issuance of a specific license is inconsistent with current U.S. policy because it has been less than three years since the most recent of the three dates listed above. Accordingly, your request for a license is hereby denied.

We note that, consistent with § 515.561(a) of the Regulations, it would be inappropriate for you to make application with the Office of Foreign Assets Control for a specific license to visit a member of your immediate family until the required three-year period has passed.

Sincerely,

Charles Bishop
Sanctions Coordinator (Miami)
Office of Foreign Assets Control

Romero was notified by OFAC that "it would be inappropriate" for to seek permission to visit her family in Cuba "until the required three-year period has passed."

come. But she couldn't come and she couldn't send the pampers and the medicines. So we had to endure rough times." After several months, they began to run out of diapers and basic medical supplies, such as iodine and hydrogen peroxide, which they needed to clean his bed sores.¹¹⁴

Her absence also seems to have had an impact on her father's health. "When she wasn't able to come, he started to get quieter and quieter, he started to get worse, as if he was debilitating little by little," Claraco said. "We were desperate. We saw him deteriorate day by day, and she wasn't able to come, and we couldn't do anything. We were suffering on this side and she was suffering on that side."¹¹⁵

In September, Romero learned from her father's doctor in Cuba that he had become deeply depressed, most likely because of her extended absence, and stopped eating. She was torn about what to do. "I would have gone every month," she said. "I would have stayed with him. I would have made sure he was taken care of. But I was afraid of breaking the law."¹¹⁶

She decided to submit a request to the Office of Foreign Asset Control (OFAC) for permission to travel, hoping that an exception might be made given her situation. She still had not received a response in October, when her nephew alerted her that her father had been hospitalized and was in very serious condition. She called OFAC twice, leaving a message on voicemail but received no reply. Meanwhile, her father's condition deteriorated. And finally, on October 20, he died.

The following month, Romero received a letter from OFAC responding to her September request for permission to visit her father. The request was denied. She was not authorized to travel until 2007.

Four months after her father's death, Ms. Romero told Human Rights Watch that she still had not recovered from the trauma. "I'm in very bad shape. I can't live normally. It's torture, night after night, minute after minute." The main source of her anguish is the knowledge that she was unable to be with her father when she believes he needed her most. "He died alone. There was no one to summon a priest for him. We never had a chance to say goodbye."¹¹⁷

¹¹⁴ Human Rights Watch telephone interview with Marisol Claraco, Havana, Cuba, February 25, 2005.

¹¹⁵ Ibid.

¹¹⁶ Human Rights Watch telephone interview with Marisela Romero, Miami, Florida, March 9, 2005.

¹¹⁷ Ibid.

Romero's anguish is compounded by her anger at having her freedom to travel restricted by the U.S. government:

I came to this country in search of freedom, not for economic reasons. I remember when I saw myself in the Miami Airport, the first thing that came to my mind was, "Oh my God, I am free!" And now I feel like someone is taking away this freedom that I came here for. ... They have taken away from me the right to go to see my family when I want to. ... How can such a beautiful country have a law like this?"¹¹⁸

Andrés Andrade

Andrés Andrade, age fifty, who migrated in 1980 "looking for new opportunities," had been returning regularly to Cuba in recent years to help his sister, Arelis Andrade López, take care of their parents, including a mother who was battling cancer.¹¹⁹

"He was a great support for me," Arelis Andrade told Human Rights Watch. "I am alone here, my sons are young and they have to work." But with the restrictions in place, she could no longer count on his help. "It was horrible because I couldn't have him next to me ... I was not able to have my brother's emotional support ... I missed my brother a lot."¹²⁰

In November 2004, their mother developed a severe pulmonary problem and had to be hospitalized. In the past, Andrés Andrade would have been able to travel to Cuba to help his sister care for her mother. But this time she was alone. "I spent four straight days without any sleep, sitting on a chair next to her," Arelis Andrade recalled.¹²¹

Andrés Andrade's absence was even harder on their dying mother. "She was holding on to life because she hoped that he would come," Arelis Andrade recalled.

She wanted him to come, but at the same time she would say, "Tell him not to come, because I don't want him to get in trouble." Sometimes she did not want to eat, and I would tell her "Look Mima, you have to

¹¹⁸ Ibid.

¹¹⁹ Human Rights Watch telephone interview with Andrés Andrade, Union City, New Jersey, February 12, 2005.

¹²⁰ Human Rights Watch telephone interview with Arelis Andrade, Havana, Cuba, February 29, 2005.

¹²¹ Ibid.

eat, because my brother is going to come to see you and he has to see that you have been eating.” I would have to tell her such “merciful lies,” as they say. But she died. She died longing to see my brother. ... That day before she died, the screaming was horrible. She wept and cried out his name.¹²²

After she died, Arelis Andrade sent her brother the news via email. “He called me crying, saying that he had not been able to see my mom, that he would have been able to see her before she died, if it hadn’t been for the restrictions.”¹²³



Andres Andrade with his mother. “She died longing to see my brother,” his sister said. “That day before she died, the screaming was horrible. She wept and cried out his name.”

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Their mother’s death also had a devastating impact on their eighty-two-year-old father, a diabetic with high blood pressure who has survived three heart attacks. According to Arelis Andrade, losing his wife after a sixty-year marriage provoked a deep depression that has further undermined his already precarious health.¹²⁴

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Ibid.

In the past, Andrés Andrade had regularly sent his father medicines and, at times when his situation grew more critical, traveled to Cuba himself with enough medical supplies to last months. Under the new restrictions he is only able to send \$100 a month, which he insists is not enough to cover his father's needs. Moreover, he will not be able to visit again until 2007 and he fears that his father will have died by then. The travel restrictions, he says, "have affected me a great deal emotionally." His inability to visit his family and provide them great support has caused him a feeling of "helplessness."¹²⁵

As in the final stage of their mother's illness, Arelis Andrade must assume the full burden of her father's care.

Currently, I take care of my dad, but I am alone ... He is a very difficult person to take care of. He is very stubborn and he always wants to get his way ... When my mom died, I would tell him "Pipo, don't worry," but he would cry. ... He still can't believe that she died and he starts crying.¹²⁶

Like their mother before she died, she says, he is extremely distressed that he cannot see her brother.

Everyday he tells me that he is waiting for Andrés to come, because he has a gift for him that my mom gave him, and that it is something he can only tell him. And I ask him "Pipo, what is it that you have to give him, to tell Andrés?" But he only tells me that it is something that he must tell Andrés himself ... He can hardly see and he is practically deaf. He is very thin. He says that he wants to go join my mom, that he wants to die, but that before he goes he wants to see Andrés to give him the gift that my mom left him. I pray to God everyday that my dad makes it until 2007 ... But he is eighty-two years old already and he is very sick. ... Sometimes, when I despair, I sit out on the patio alone and cry.¹²⁷

¹²⁵ Human Rights Watch telephone interview with Andrés Andrade, Union City, New Jersey, February 12, 2005.

¹²⁶ Human Rights Watch telephone interview with Arelis Andrade, Havana, Cuba, February 29, 2005.

¹²⁷ Ibid.

Leandro Seoane

Leandro Seoane's ties to his family were first tested when, at age fifteen, he told his parents he was gay. Refusing to accept this news, his father took him to a psychologist and then a psychiatrist in Havana. "When the psychiatrist told my father that I wasn't going to change—that the one who'd have to change was him—he was heartbroken," Seoane recalls.¹²⁸



Leandro Seoane at age six with his mother in Havana.

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A year later, Seoane was walking home with some friends one evening when he was picked up by the police, thrown in a jail with dozens of other openly gay men, abused verbally, held overnight, and, before being released the next morning, told he had a choice: he must leave Cuba or go to prison.

The year was 1980, the Mariel boatlift was getting underway, and the Cuban government had decided to use the exodus to send gays—as well as prostitutes, Jehovah's Witnesses, and convicted criminals—out of the country. By the time Seoane had his interview for an exit visa several weeks later, many people eager to leave the island had begun claiming, falsely, that they too belonged to one of these stigmatized categories, prompting the authorities to scrutinize each claim closely.

Although his parents had still not fully reconciled themselves to his sexual orientation, they were determined to help their son escape persecution because of it—which meant helping him convince the authorities that he was in fact gay. So they accompanied him to his interview and, beforehand, his mother applied makeup to his face and lent him her jewelry.

After a humiliating interview, Seoane obtained the authorization and soon traveled along with thousands of other Cubans to Miami. Shortly after he had settled in, he received a letter from his father who suggested that he should take the opportunity of starting afresh in a new country to change his lifestyle. "I wrote back to him right away," Seoane recalls. "And I told him that if he ever said anything like that again, he would never hear from me again. He would no longer be my father."¹²⁹

¹²⁸ Human Rights Watch telephone interview with Leandro Seoane, Miami, March 3, 2005.

¹²⁹ Ibid.

Seoane's father wrote back, apologized, and never repeated the suggestion, thus avoiding a family rupture. But they remained separated nonetheless by the distance between them and the fact that, throughout the 1980s, the Cuban government refused to let the "Marielitos" (Cubans who had left on the Mariel boatlift) return to Cuba.

It wasn't until 1989 that Seoane had a chance to see his parents again, when they visited the United States and got to see him living with a long-term male partner. Two years later, in 1991, Seoane was finally able to return to Cuba. One day while he was there, his family sat down together on the floor of their Havana home and talked about what they had been through. "My father told me that he had been wrong, that he had come to see that his son was a true man," Seoane recalls. "He even said he had come to see that I was braver than most men."¹³⁰

After that reunion, Seoane returned to Cuba seven or eight times to visit his family, until his last visit in March 2004. His parents looked forward to these visits and were greatly distressed when the new travel restrictions went into effect. Seoane's mother recalled her husband's reaction: "When he found out that his son would not be allowed to travel for three years, he said 'Oh, my lord, when will I see Leandro? From now to when Leandro comes, I don't know what could happen.' You see, he foresaw that he wouldn't ever see him again."¹³¹



Seoane visiting his parents in Havana. "Oh, my lord, when will I see Leandro?" Seoane's father said when he learned of the new restrictions. "From now to when Leandro comes, I don't know what could happen." Within six months he had died of cancer.

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¹³⁰ Ibid.

¹³¹ Human Rights Watch telephone interview with the mother of Leandro Seoane, Havana, Cuba, March 4, 2005.

In August 2004, Seoane's father, eighty-three, was diagnosed with throat cancer. In the following weeks his health deteriorated rapidly. "If I could have traveled then, I would have," Seoane said. "I would have spent time with him. I knew he would have done better."¹³² But unable to travel, he called Cuba repeatedly, running up monthly telephone bills as high as \$600.

Seoane's father died on November 14. His mother described the sadness that had afflicted him during his final weeks. "He was really hoping that Leandro would come to see him. I don't think he would have died so quickly if Leandro could have come." And she recalled Seoane's reaction to the news: "My son was desperate because he could not come," she said. "He didn't know what to do. ... He called me every day, asking how I was and, poor guy, he spent a lot of money calling me."¹³³

Seoane is still bitter about not being able to be with his family during his father's illness and then for his funeral. "Here in this country they talk so much about family values," he said. "But what could be more valuable than reuniting a family?"¹³⁴

Carlos Lazo

After seven months serving as a combat medic in Iraq, there was nothing U.S. Army Sergeant **Carlos Lazo** wanted more during his two-week furlough than to see his two teenage sons in Havana. He would soon be back on the frontlines and, having already seen the carnage there firsthand, he realized there was a chance he might never see them again.¹³⁵

But when he arrived in Miami in June 2004, he was stunned to learn that, because of the new restrictions, he could not travel to Cuba. As he saw it, "the administration that trusted me in battle in Iraq does not trust me to visit my children in Cuba."¹³⁶

¹³² Human Rights Watch telephone interview with Leandro Seoane, Miami, Florida, March 3, 2005.

¹³³ Human Rights Watch telephone interview with the mother of Leandro Seoane, Havana, Cuba, March 4, 2005.

¹³⁴ Human Rights Watch telephone interview with Leandro Seoane, Miami, Florida, March 3, 2005.

¹³⁵ Statement by Carlos Lazo, "Cuba Action Day," Washington, D.C., April 27, 2005; Human Rights Watch telephone interview with Carlos Lazo, Seattle, Washington, May 20, 2005.

¹³⁶ Carlos Lazo, "Trusted in Iraq, Barred From Cuba," *Los Angeles Times*, April 26, 2005.



Sgt. Carlos Lazo in Iraq with photos of the teenage sons he was unable to visit during his furlough. "[T]he administration that trusted me in battle in Iraq does not trust me to visit my children in Cuba," he complained.

© 2004 Private

Lazo had left Cuba on a raft in 1992 “for the same reasons immigrants have always come to these shores: to taste freedom, to take advantage of the economic opportunities and to build a better life for the people I cared about.”¹³⁷

He returned to school for a counseling certificate, moved to Seattle where he got a job working with people with developmental disabilities, and, at the age of 35 joined the Washington National Guard.

Although he had become a U.S. citizen, he maintained close ties with his family in Cuba, sending money every month to his sons and other relatives, and visiting once a year—and even more often when his father fell ill. His last visit was in April 2003.

¹³⁷ Ibid.

Forced to return to Iraq without seeing his family in Cuba, Sergeant Lazo would soon witness some of the heaviest fighting of the war while providing backup to the Marines during the battle of Falluja in November 2004.

Safely back in the United States at the end of his tour, he no longer fears he will die without seeing his family in Cuba again. Yet the travel restrictions are still taking a heavy toll on him. “I can’t help out my sons,” he told Human Rights Watch. “I can’t give them human warmth. I can’t fulfill my obligation as a father. I can’t send money to my uncles because they are no longer part of my family.”¹³⁸

The separation has also taken a toll on his sons. “Three years is too long,” his eighteen-year-old son told an NBC News reporter. “I miss him when I’m alone. When I don’t have anyone to talk to. When I’m with my friends. When my friends are talking about their fathers. There’s a hole because he’s not with me.”¹³⁹

By keeping him from his sons, the travel restrictions have produced an acute dilemma for Sergeant Lazo. He is very proud of his service in the U.S. army and worried that, if he were to violate the travel ban, he might jeopardize his military career. “I always believe in doing my duty,” he said at a public gathering in Washington, D.C. “I did my duty in Iraq, even when it meant I could lose my life. But I think I also need to do my duty as a father.”¹⁴⁰

Milay Torres

Milay Torres, age seventeen, migrated to the United States in 2000 to live with her father, leaving behind her mother, siblings, cousins, grandparents, and uncles in Cuba. It was three years before her father was able to save enough money for her to return to the island for a very emotional visit in 2003. And she told Human Rights Watch that she was “very excited” about returning again during her summer vacation in 2004.¹⁴¹

News of the new travel restrictions came as a major blow to her. When she found out she would not be able to travel, she says, she became “very depressed and turned rebellious and stopped going to school.”¹⁴²

¹³⁸ Human Rights Watch telephone interview with Carlos Lazo, Seattle, Washington, May 20, 2005.

¹³⁹ Mary Murray, “Cuban teens want to see their U.S. soldier dad,” *NBC News*, October 25, 2004, <http://www.msnbc.msn.com/id/6327065/> (retrieved September 26, 2005).

¹⁴⁰ Statement by Carlos Lazo, “Cuba Action Day,” Washington, D.C., April 27, 2005.

¹⁴¹ Human Rights Watch telephone interview with Milay Torres, Miami, Florida, February 18, 2005.

¹⁴² *Ibid.*

The impact on her mother appears to have been even more severe. Mirladi Arias, forty, who suffers from diabetes and a nervous condition, told Human Rights Watch that her inability to see her daughter has had a profound impact on her psychologically.

After she left Cuba, I began suffering more anxiety attacks. After I found out [about the travel restrictions] my anxiety worsened. I am seeing psychologists and psychiatrists, and when I get these attacks, I go to the hospital and they inject me with some sedatives and send me home. ... What happens to me with these nervous crises is that I get really sad and I start screaming and crying and I break the things that I am holding in my hands ... When I see the things that are happening there, with the traveling restrictions ... my condition worsens, because I am waiting for her to come, but she doesn't come. ... Sometimes I tell people that I would give up my life to be able to see my daughter for just five minutes.¹⁴³

Amparo Alvarez

"Amparo Alvarez," age sixty-nine, migrated to the United States in 1993 seeking medical treatment that was unavailable to her in Cuba. She eventually became a citizen, retired, and currently receives disability payments from the government. She is distressed that she will no longer be able to visit her daughter and grandchildren, as she had been doing once a year before the new restrictions went into effect.¹⁴⁴

One reason she wants to travel now is to help her forty-one-year-old daughter, who has been told she needs a hysterectomy as soon as possible, but has no one to take care of her two children while she is hospitalized and recovering.

A second reason is that she herself is in very poor health, suffering from high blood pressure, degenerative osteoarthritis, and serious kidney problems that may require surgery. She believes that visiting her family can help give her the emotional strength to face her illnesses. "It's like a very sick person who gets a blood transfusion and, as a result, comes back to life. That is what it's like for me, seeing her, it's as if they injected me with life."¹⁴⁵

¹⁴³ Human Rights Watch telephone interview with Mirladi Arias, Havana, Cuba, March 4, 2005.

¹⁴⁴ Human Rights Watch telephone interview with "Amparo Alvarez" (not her real name), Miami, Florida, February 14, 2005.

¹⁴⁵ Ibid.

But she is afraid that she may not live to see her family again. Since her last visit was in May 2004, she will have to wait until 2007 to obtain permission to travel again. “I am seventy years old already,” she told Human Rights Watch. “I am already ‘due’ like they say. My priority now is to see my daughter. ... I don’t have much time left, so I have to do everything possible to see her.”¹⁴⁶

Despite her desire to travel, she says she is unwilling to circumvent the travel restrictions. “I don’t like doing anything illegal. I have always respected the laws of this country.” But she conceded that she felt torn between her obligation to her family and her obligation as a law-abiding citizen of the United States:

I am very grateful to this country. This country gave me refuge, I worked and I was able to retire and have the disability and that is something one is grateful for. But I feel extremely affected, because what I want the most is to be able to see my daughter and my two grandsons.¹⁴⁷

Nohelia Guerrero

“**Nohelia Guerrero**,” age forty-six, a businesswoman, left Cuba in 1992, and had returned three times before the restrictions were imposed, the last visit in June 2004. Her sixty-five-year-old mother has advanced Alzheimer’s disease and needs around-the-clock care. Guerrero pays a nurse to take care of her. When her mother was hospitalized in February 2005, she decided to visit her, circumventing the travel restrictions by traveling via a third country.¹⁴⁸

Under the new restrictions on remittances, Guerrero reported, she cannot send enough cash to cover the cost of her mother’s most basic needs: food, diapers, and the nurse’s wages. In the past it was easy to send cash with friends and acquaintances that were traveling, but now fewer are traveling. A collateral effect of the restrictions has been to force courier companies to raise their rates (by 50 percent in the company she regularly used) as the companies themselves have more difficulty finding people they can pay to carry packages.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Human Rights Watch telephone interview with “Nohelia Guerrero” (not her real name), Miami, Florida, February 28, 2005.

The restrictions have hurt her on several levels, she told Human Rights Watch. One is emotional: “Not being able to visit a mother who is dying affects me daily because you feel helpless.”¹⁴⁹

The restrictions have also hurt her financially. “I’m losing lots of money,” she said. When she traveled to visit her hospitalized mother, the airfare was much more expensive than it would have been flying directly to Cuba, she said, “and this means less money for my family.”¹⁵⁰ Moreover, she added, “you always have that terrible fear that if they catch you you’ll have to pay” a fine.¹⁵¹

A third way the travel restrictions affected her, she says, is by putting her in a situation where she felt compelled to break the law. “I have never had problems with the law. And I have great respect for the American laws. But I have had to break the law because of a humanitarian problem—my mother.”¹⁵²

Finally, the restrictions have provoked in her a sense of betrayal by the adopted country whose values she had embraced. “I came to this country for the freedom,” she said, “and now they are taking it away from me.”¹⁵³

The Impact of U.S. Travel Restrictions

Family Separation

In defending the new travel restrictions, the Bush administration has disregarded the importance that many Cubans attach to their visits to their families in Cuba. Deputy Assistant Secretary of Western Hemisphere Affairs Dan Fisk has stated, for example, that prior to the new restrictions, “Cubans had, in effect, established a commuter relationship with the island—living and working part-time here and living and vacationing part-time there—all the while serving as conduits of hard currency to the regime.”¹⁵⁴

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Michael Braga, “Cuban-American votes aren’t a lock for the GOP this year; It appears some Bush administration policies have backfired,” *Sarasota Herald-Tribune*, October 30, 2004.

The right to return to one's home country is not contingent upon the purpose of the travel, so the fact that many Cubans may indeed be merely "vacationing" in Cuba is largely irrelevant. But as the seven cases above illustrate, that right serves to protect much more than travel for pleasure. It can also be crucial for allowing migrants to maintain their connection with some of the people they most value in their lives—their families.

It is undoubtedly true that many Cubans, including some of the ones we interviewed, traveled regularly to Cuba for holidays and special occasions. "**Saray Gómez**," for instance, a sixty-two-year-old school teacher who left Cuba in 1970, traveled to Cuba three times a year—for her father's birthday in March, her mother's birthday in August, and at Christmastime. Yet she and several of the Cubans we interviewed bristled at the suggestion that they traveled to Cuba simply for pleasure. "My family is the most important thing to me," she said.¹⁵⁵

"I don't go to Cuba to vacation," insisted "**Isabella González**," age seventy-six, who used to visit Cuba once a year until the new regulations went into effect. "I go because I have to see my sisters. The family is the most important thing you have." In the end, she said, "it is the only thing you have."¹⁵⁶

While many of the people interviewed stressed their opposition to the Cuban government, they also insisted that their political views had no bearing on their family ties. "**Gregorio Torres**," who left behind his parents, siblings, and two children when he migrated in 2000 with his wife and stepdaughter, told Human Rights Watch: "You can oppose the regime, the policies. But you're never going to oppose your family."¹⁵⁷

Family Illness

Family-related travel becomes particularly important when there are family members in Cuba whose health is failing. The previous regulations recognized this fact by allowing Cubans to obtain special licenses to visit family in Cuba for "humanitarian" reasons. The current regulations eliminate this exception.

¹⁵⁵ Human Rights Watch telephone interview with "Saray Gómez" (not her real name), Miami, Florida, February 14, 2005.

¹⁵⁶ Human Rights Watch telephone interview with "Isabella González" (not her real name), Miami, Florida, February 4, 2005.

¹⁵⁷ Human Rights Watch telephone interview with "Gregorio Torres" (not his real name), Miami, Florida, March 2, 2005.

The Bush administration has insisted that Cubans will still be able to visit their ailing relatives, only less frequently. “An individual can decide when they want to travel once every three years and the decision is up to them,” Fisk has said. “So if they have a dying relative, they have to figure out when they want to travel.”¹⁵⁸

But this option is entirely inadequate for people with relatives in poor health, and even worse for those with multiple family members who are ailing. **Saray Gómez**, for example, visited her family before her father died in January 2004, and as a result is now restricted from visiting her mother who is also seriously ill.¹⁵⁹

Nor is it an option for many of the people we interviewed who have traveled last year and therefore must wait until 2007. “**Nelson Espinoza**,” for example, said, “I can’t wait three years to see my sister, who is in a very delicate condition, because I don’t know what’s going to happen.”¹⁶⁰ Similarly, “**Lorena Vasquez**,” who visited Cuba in 2004, is anxious about her sister who has cancer. “It’s likely I won’t see her again,” Lorena Vasquez said. “She won’t last three years.”¹⁶¹

Moreover, the issue for many is not so much saying goodbye to a family member as helping that person to live. One central purpose of the family visits, as we saw in the case of Marisela Romero, is to bring money and medical supplies. While individuals can still send remittances and supplies through couriers, a collateral effect of the travel restrictions, according to several people, is that it is now more difficult to do so. “**Sandra Sanchez**,” has been sending medicine to her father, who has cancer, every month, but she finds that it takes longer to arrive because the number of people traveling has decreased.¹⁶²

Similarly, **Ivonne Acanda**, who has been sending medicine to relatives for several years, reports that the courier company she used in the past was compelled to shut down because of the travel restrictions. “I don’t know now anybody that goes to Cuba, and one can’t risk sending these medicines that are so important with someone one doesn’t

¹⁵⁸ Eliza Barclay, “Analysis: Cuba restrictions delayed,” *Washington Times*, June 3, 2004.

¹⁵⁹ Human Rights Watch telephone interview with “Saray Gómez” (not her real name), Miami, Florida, February 14, 2005

¹⁶⁰ Human Rights Watch telephone interview with “Nelson Espinoza” (not his real name), Union City, New Jersey, February 23, 2005.

¹⁶¹ Human Rights Watch telephone interview with “Lorena Vasquez” (not her real name), Miami, Florida, February 4, 2005.

¹⁶² Human Rights Watch phone interview with “Sandra Sanchez” (not her real name), Miami, Florida, February 7, 2005

know very well.” In October 2004 she did in fact send medicines with a woman who was making the trip.

I took the risk with that lady, and thank god she behaved really well and brought the medicines directly to my nephew’s door. But in other occasions, you can find people who won’t do you the favor and it is difficult to ask someone that you don’t know to bring the medicines to Cuba.¹⁶³

Even where it is possible to send cash and medical supplies, several people stressed that caring for a sick relative involves more than covering the costs of care. **María Lemos**, for example, has been helping care for her eighty-four-year-old mother in Cuba who is in very poor health and chronic pain, confined to a wheelchair, with an ulcer and severe arthritis. Before the restrictions, she used to visit her once or twice a year, but since her last visit was in May 2004, she is prohibited from traveling again until 2007. She is still able to send money and medicine to Cuba. But she is convinced that her mother needs more than that to endure her ailments.

They say it doesn’t really matter [if you can’t travel] because you can still send medicine and money. But it’s not just about money and medicine, it’s also being able to touch her, and see her. In other words, [it’s] the human warmth. Each time I go there is like giving her an injection of happiness. It makes her want to keep living.¹⁶⁴

Similarly, **Saray Gómez** reports being told by a psychiatrist who is treating her mother for a nervous condition that she should visit as often as possible, as her mother’s condition worsens when she is not around.¹⁶⁵

According to **Arlene García**, her frequent trips to Cuba prior to the restrictions were critically important for her sister and brother-in-law, who are alone caring for a father who is battling cancer and an aunt who was left partially paralyzed by a stroke: “When I go it is the only time they have vacation,” García said, adding that her trips were even more critical for her ailing relatives. “It is the best medicine that they get. It’s amazing

¹⁶³ Human Rights Watch telephone interview with Ivonne Acanda, Union City, New Jersey, February 23, 2005.

¹⁶⁴ Human Rights Watch telephone interview with María Lemos, Miami, Florida, February 18, 2005.

¹⁶⁵ Human Rights Watch telephone interview with “Saray Gómez” (not her real name), Miami, Florida, February 14, 2005

how the presence of a person can sometimes reduce the problems that they have even if it is just for a little bit.”¹⁶⁶

While Cubans in the United States can still communicate directly with relatives in Cuba by telephone, calls to Cuba are exceedingly expensive (because of the embargo), and do not compensate for the lack of direct human touch. Sometimes communication by telephone is not even an option. “**Johana Suarez**,” age sixty-four, had been traveling to the island every year at Christmastime to see her mother, who is eighty-eight, sick, and alone. Unable to travel because of the restrictions, she tried calling her mother on Christmas in 2004. But her mother’s ability to speak had by then deteriorated to such a degree that when she got her on the phone and said “It’s me, your daughter,” there was complete silence on the other line.¹⁶⁷



Maria Lemos with her ailing mother. “Each time I go there is like giving her an injection of happiness,” she said. “It makes her want to keep living.”

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The visits can also provide a critical respite for relatives in Cuba who are taking care of an illness, as in the case of Marisela Romero and Andrés Andrade above. **Santiago Hernández**, for example, is anxious to provide a break for his sixty-six-year-old sister who is caring for their ninety-six-year-old mother in Cuba. The mother has cancer and his sister is exhausted from bearing the full responsibility of taking care of her, he says. There are currently no other relatives in Cuba who can help her.¹⁶⁸

¹⁶⁶ Human Rights Watch telephone interview with Arlene García, Miami, Florida, May 12, 2005.

¹⁶⁷ Human Rights Watch telephone interview with “Johana Suarez” (not her real name), Miami, Florida, January 31, 2005.

¹⁶⁸ Human Rights Watch telephone interview with Santiago Hernández, Miami, Florida, January 26, 2005.

“**Cecilia Espinoza**,” seventy-four, who lives in Cuba and suffers from diabetes, expressed her dismay that her brother in Miami would not be able to visit her until 2007:

My other brother died already. My husband also died. I don't have any children, or uncles or aunts. I am alone. [The travel restrictions] have affected me because there are no medicines here. I can hardly see anymore. My legs hurt. When he [used to visit]..., he would buy things for the house, he would take me out to eat, he would buy me clothes, shoes, and he would leave me money. But not anymore. Now he is unable to come. I am alone, and who is going to help me? I have no hope.¹⁶⁹

Redefining the Family

For those with no relatives who fit the definition of “immediate family,” traveling is not an option. The administration has defended this restriction by trivializing its impact. “[W]hat are we supposed to say to them?” As already noted, Roger Noriega, while serving as assistant secretary of state for western hemisphere affairs, told one reporter. “We’re going to continue to allow this money to be shoveled into the coffers of a regime that’s going to keep them in chains in—in—in—under a dictatorship because we want to preserve the right of people to visit their aunts?”¹⁷⁰

But for many people Human Rights Watch spoke with the impact could be quite significant. **Saray Gómez**, for example, is concerned that, should her ailing mother die, she will then not be able to obtain permission to visit her seventy-five-year-old aunt, who is also in very poor health. “Apparently for [President Bush], aunts and uncles are not family,” she said. “[But] I love her as though she were my mother. She helped raise me. She didn’t have kids. We were her kids.”¹⁷¹

Several other people also reported that their aunts or uncles had played such a central part in their upbringing that they were, in fact, like parents to them. For example, **Luisa Rimblás**, age fifty-seven, who left Cuba in 1970, had been making yearly trips to Cuba to visit her ailing mother and six aunts, who she says raised her, since her mother worked as a teacher in the countryside and was often away from home. Rimblás worries

¹⁶⁹ Human Rights Watch telephone interview with “Cecilia Espinoza” (not her real name), Havana, Cuba, March 4, 2005.

¹⁷⁰ Dateline NBC, August 1, 2004.

¹⁷¹ Human Rights Watch telephone interview with “Saray Gómez” (not her real name), Miami, Florida, February 14, 2005.

that should her mother die, she will not be permitted to visit her aunts. “It’s not fair that they tell me that I can’t go to see my aunts, who are like mothers to me ... that they tell me that my aunts are not important.”¹⁷²

“**Mario Fuentes**,” age sixty-two, who left Cuba in 1971, lost his great-uncle in January 2005, a man who he says was like a father to his own mother, raising her after she was orphaned. “And for me he was like a father or a grandfather, the person I admired more than anyone.”¹⁷³

The ties with uncles and aunts can become particularly important for people after their own parents die. “**Irene Espinoza**,” age thirty-two, who lives in Cuba and lost her father to cancer in September 2003 and her mother in 2000, described how important it was for her to see her uncle, who cannot travel to Cuba until 2007. “Imagine, first my mom dies and then after my dad dies. And I have a daughter and I am a single parent. And he is my uncle, which is to say like my dad, the one that looks after my aunt and me. I really need his support.”¹⁷⁴

In addition to aunts and uncles, others told us of close relatives who did not qualify as “immediate family” under the new restrictions. **Ignacio Menéndez**, age fifty-five, came to the United States on the 1980 Mariel boatlift, with his wife, who was forced to leave behind three children from her first marriage because their father prevented them from leaving. Menéndez says he was very close to the three children and that they see him as their “true father.” Since the 1990s, he and his wife have visited them in Cuba once a year, but they will not be able to engage in family-related travel again until 2007. He is especially concerned about his thirty-three-year-old stepdaughter who was diagnosed with lymphoma last year and whose recovery, after four operations, is far from guaranteed.¹⁷⁵

Ivonne Acanda no longer has any relatives in Cuba who fit the Bush administration’s definition of “immediate family,” but she does have numerous uncles, cousins, and nephews, as well as relatives of her husband, whom she considers part of her family. One of them is her husband’s nephew, now in his mid-20s, who was run over by a train in 2002, losing one leg and badly damaging the other. Since the accident she has

¹⁷² Human Rights Watch telephone interview with Luisa Rimblás, Miami, Florida, February 14, 2005.

¹⁷³ Human Rights Watch telephone interview with “Mario Fuentes” (not his real name), Miami, Florida, January 25, 2005.

¹⁷⁴ Human Rights Watch telephone interview with “Irene Espinoza” (not her real name), Havana, Cuba, March 4, 2005.

¹⁷⁵ Human Rights Watch telephone interview with Ignacio Menéndez, Miami, Florida, February 4, 2005.

traveled to Cuba three times, bringing him medicine, and she has sent medicine through couriers when she could not travel herself. She is anxious now to travel so that she can bring him a wheelchair and to visit the other relatives who are not part of her “immediate family,” because, she says, “blood is something that pulls you.”¹⁷⁶

Divided Loyalties

Faced with these restrictions, many Cubans have felt compelled to break the law, either by providing false information to obtain a special license for travel, or by traveling via a third country and not reporting the trip. One means of circumventing the restrictions reportedly has been by signing up with churches that have special licenses as religious organizations. These licenses are meant for religious delegations doing church-related work in Cuba. However, several people we spoke with said the churches had, for a considerable fee, allowed them to sign up for delegations and then spend their time in Cuba with their families.

Falsely declaring themselves members of a church may have caused these individuals some discomfort, but they felt that the need to see family members justified it. **Saray Gómez**, for example, a former Catholic youth leader in Cuba, signed up with a *Santería* delegation after her father had a heart attack in December.¹⁷⁷ (Ironically, Gómez abandoned the island in 1970, in part, she says, because the government had not allowed her to practice her religion.)

Many others told Human Rights Watch that they were unwilling to violate the restrictions. **Jorge Rodríguez**, age forty-six, for example, who is anxious to visit his aging mother and a sister who had been hospitalized with a serious illness, refuses to consider traveling with a fraudulently obtained religious license. “I love this country,” he said. “I have been in this country for twenty-six years. I have two daughters who were born here ... And I don’t want any problems with the law in this country.”¹⁷⁸

Isabella González expressed a similar mix of respect for U.S. law and fear of the consequences of violating it. Before the new restrictions, she used to visit Cuba once a year and is anxious now to see her sister and step-sister, both of whom are gravely ill, but not if it means doing something illegal.

¹⁷⁶ Human Rights Watch telephone interview with Ivonne Acanda, Union City, New Jersey, February 23, 2005.

¹⁷⁷ Human Rights Watch telephone interview with “Saray Gómez” (not her real name), Miami, Florida, February 14, 2005

¹⁷⁸ Human Rights Watch telephone interview with Jorge Rodríguez, Hollywood, Florida, February 25, 2005.

I am American and I love this country. I respect the laws of this country. And I thank God and this country for everything I have had, for the opportunity to work and receive disability [payments]. I want to see my sisters above all because they are in very poor health. But I don't want to lose what I have here.¹⁷⁹

Others felt similarly torn between their obligation to their families and their obligation as citizens. **María Lemos**, for example, said she is unwilling to circumvent the restrictions, explaining that she “had never done anything outside the law and didn't want to do it.” But she says that the fact that she can't visit her mother until 2007 has had a major impact on her emotionally. “Just thinking about it makes me want to cry,” she said. “I have a mom who is sick and old and I don't know what could happen in three years ... I don't understand why, because of political problems between governments, I can't go to see my mom.”¹⁸⁰

Ignacio Menéndez summarized his internal conflict this way: “We are citizens of the United States and we need to follow the law. But I have a right to visit Cuba. Cuba is my country. My mother country.”¹⁸¹

Curtailed Freedom

As with the embargo, the Bush administration justifies the travel restrictions as a response to Castro's human rights record. “To the individuals it may not seem fair,” then-Assistant Secretary Noriega has said. “But the problem of the Cuban situation is not that families are divided. The problem is that half the family lives in a dictatorship.”¹⁸²

Many of the people interviewed for this report share the administration's critical view of Castro's human rights record. Some said that they, themselves, had been victims of political persecution in Cuba. A few even endorsed the embargo. But all opposed the restrictions on family travel. And, in fact, several said it reminded them precisely of the sort of policy that they hoped to escape when they migrated.

¹⁷⁹ Human Rights Watch telephone interview with “Isabella González” (not her real name), Miami, Florida, February 4, 2005.

¹⁸⁰ Human Rights Watch telephone interview with María Lemos, Miami, Florida, February 18, 2005.

¹⁸¹ Human Rights Watch telephone interview with Ignacio Menéndez, Miami, Florida, February 4, 2005.

¹⁸² Dateline NBC, August 1, 2004.

“We also hate the Cuban government,” said **Alejandro López**, a forty-one-year-old artist who had once been threatened with jail time because a work of his was misinterpreted by authorities as being religious. “I’m here because I want to be free. But now the U.S. government wants to treat me the way the Cuban government would.”¹⁸³

“I would understand that [a policy like] this could happen in Cuba,” said **Beatriz Niz Gallardo**, who left Cuba in 1983, “but not here in the most democratic country in the world.”¹⁸⁴

Lourdes Arteaga, who left Cuba in large part because she “was tired of the repression,” said: “Here they are doing the same thing that Fidel does. Over there you are not allowed to leave, and over here they don’t allow you to go and visit your family.”¹⁸⁵



Arlene Garcia visiting her niece and father, who made a “big sacrifice” sending her out of Cuba when she was a teenager. Now he is battling cancer and she is unable to visit him.

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¹⁸³ Human Rights Watch telephone interview with Alejandro López, New York, New York, February 2, 2005

¹⁸⁴ Human Rights Watch telephone interview with Beatriz Niz Gallardo, Miami, Florida, March 4, 2005.

¹⁸⁵ Human Rights Watch telephone interview with Lourdes Arteaga, February 16, 2005.

For **Arlene García**, whose father is now battling cancer back in Cuba, the restrictions are a bitter reminder of the sort of policy her parents wanted her to escape when they arranged her emigration as a teenager thirty years ago:

My parents made a big sacrifice sending me, their oldest daughter, out of the country so I could be free. ... Now I can't visit and help the father who made that enormous sacrifice for me. I'm an American citizen now and I think that for our country to have a law like this is shameful.¹⁸⁶

After insisting that he would not violate the travel restrictions, **Jorge Rodríguez** added:

I feel really bad because that was precisely why I came to this country. I left Cuba because I didn't have any freedom of expression. ... I get here and this is a free country, where I have all the freedom to express myself. But I think that they can't take away one's right to travel freely, especially when one travels to a country to visit one's family, and especially when a family member is sick. For a country that proclaims human rights to create restrictions like these is wrong.¹⁸⁷

Like Rodríguez, many others questioned what they saw as a double standard on human rights in the administration's Cuba policy. **Saray Gómez**, for example, said "I don't understand how a country that talks about human rights could do something like this."¹⁸⁸

"We came here thinking this was the country of liberty," said **Ignacio Menéndez**. "You say you are the country of freedom, the country of human rights, when you are violating the human rights of the Cubans."¹⁸⁹

¹⁸⁶ Human Rights Watch telephone interview with Arlene García, Miami, September 19, 2005.

¹⁸⁷ Human Rights Watch telephone interview with Jorge Rodríguez, Hollywood, Florida, February 25, 2005.

¹⁸⁸ Human Rights Watch telephone interview with Saray Gómez (not her real name), Miami, February 14, 2005.

¹⁸⁹ Human Rights Watch telephone interview with Ignacio Menéndez, Miami, February 4, 2005.

IV. Freedom of Movement in International Law

Under international law, all Cubans have a right to leave and return to Cuba. The Universal Declaration of Human Rights (UDHR) establishes the principle that “[e]veryone has the right to leave any country, including his own, and to return to his country.”¹⁹⁰ The International Covenant on Civil and Political Rights (ICCPR) similarly establishes that “[e]veryone shall be free to leave any country, including his own,”¹⁹¹ and that “[n]o one shall be arbitrarily deprived of the right to enter his own country.”¹⁹²

The right to return extends even to those Cubans who have obtained citizenship in the United States or a third state, since the definition of “own country” in these provisions of the ICCPR is not limited to “country of nationality.” According to the U.N. Human Rights Committee, it applies as well to “an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien.”¹⁹³

The right to freedom of movement is a basic element of liberty. The freedom to leave one country for another allows individuals to escape political systems that deny them other basic freedoms, thus serving as a right of last resort. The right to return to one’s own country similarly guards against government repression by barring the state from exiling disfavored groups or individuals. The right to return also serves to strengthen the right to leave a country, in the case of non-nationals, as it ensures them that they will have a place to go.

In the case of parents and children residing in different countries, the right to leave and return is further protected by the Convention on the Rights of the Child (CRC), which proscribes the forced separation of families. The Convention establishes a child’s “right to maintain on a regular basis, save in exceptional circumstances[,] personal relations and direct contacts with both parents.”¹⁹⁴ Toward that end, the Convention requires States Parties to “respect the right of the child and his or her parents to leave any country,

¹⁹⁰ Universal Declaration of Human Rights, Article 13(2).

¹⁹¹ International Covenant on Civil and Political Rights, Article 12(2).

¹⁹² International Covenant on Civil and Political Rights, Article 12(4).

¹⁹³ See ICCPR General Comment No. 27, para. 20 (U.N. DOC. CCPR/ C/21/Rev.1/Add.9, 2/11/1999): “The scope of ‘his own country’ is broader than the concept ‘country of his nationality.’ It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien.”

¹⁹⁴ Convention on the Rights of the Child, Article 10(2). Cuba ratified the CRC on August 21, 1991. The United States signed the CRC on February 16, 1995, but has not ratified it.

including their own, and to enter their own country.”¹⁹⁵ The Convention also requires States Parties to respond to applications for travel “for the purpose of family reunification ... in a positive, humane and expeditious manner.”¹⁹⁶ And the UDHR and the ICCPR recognize a more general right to family unity, providing that: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”¹⁹⁷

International law allows States to restrict the right to freedom of movement, but only under limited circumstances. Both the ICCPR and the Convention on the Rights of the Child bar states from restricting the right to *leave* any country, except when the given restrictions are prescribed by law, are “necessary to protect national security, public order, public health or morals or the rights and freedoms of others,” and are consistent with the other rights recognized in those same treaties.¹⁹⁸

The obligation to respect the right to *return* to one’s own country is even more stringent. While the ICCPR specifically states that individuals should not be “arbitrarily deprived” of this right, the U.N. Human Rights Committee has concluded that “there are few, if any, circumstances in which deprivation of the right to enter one’s own country could be reasonable.”¹⁹⁹ The Convention on the Rights of the Child, meanwhile, allows for no restrictions on the right to enter one’s home country for the purpose of family reunification.

Cuba’s practice of denying exit or entrance visas to its citizens undermines its citizens’ right to leave and return as established in the Universal Declaration of Human Rights, as

¹⁹⁵ Ibid.

¹⁹⁶ Convention on the Rights of the Child, Article 10(1). The Convention explicitly links this right to its prohibition, in Article 9, on the forced separation of families. Article 9 requires States Parties to “ensure that a child shall not be separated from his or her parents against their will,” allowing for exceptions only where “separation is necessary for the best interests of the child” and where such a determination has been made by “competent authorities subject to judicial review.” Convention on the Rights of the Child, Article 9(1).

¹⁹⁷ Universal Declaration of Human Rights, Article 16(3), and International Covenant on Civil and Political Rights, Article 23(1). The concept that the family unit is entitled to protection is reinforced by other provisions that prohibit arbitrary interference with the family and that affirm the right to found a family. See, e.g., Universal Declaration of Human Rights, Articles 12 and 13.

¹⁹⁸ International Covenant on Civil and Political Rights, Article 12(3), and Convention on the Rights of the Child, Article 10(2).

¹⁹⁹ ICCPR General Comment No. 27, para 21. “The reference to the concept of arbitrariness in this context is intended to emphasize that it applies to all State action, legislative, administrative and judicial; it guarantees that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular circumstances. The Committee considers that there are few, if any, circumstances in which deprivation of the right to enter one’s own country could be reasonable....”

well as their right to family unity. Cuba's international obligation to respect the Universal Declaration stems from the fact that the UDHR is widely recognized as customary international law, constituting a basic yardstick by which to measure any country's human rights performance.

Although Cuba is not a party to the ICCPR, it has ratified the Convention on the Rights of the Child. In doing so, Cuba assumed responsibility for complying with the treaty's provisions and for incorporating them into Cuban domestic legislation. Consequently, its denial of travel visas and entrance visas to parents and children seeking family reunification constitutes a breach of its treaty obligation. In addition, its failure to respond in a timely fashion to parents and children seeking either entry or exit visas also contravenes its obligations under the CRC.

Nor is Cuba's denial of exit visas justified in the case of doctors, though it may serve a legitimate public health objective.²⁰⁰ It is easy to imagine other, less coercive ways to encourage doctors to practice medicine for several years in Cuba prior to emigrating (such as providing economic incentives or establishing a residency requirement for medical students to obtain their degrees). It is highly unlikely, moreover, that making an exception for doctors seeking reunification with their children abroad would have a significant impact on public health in Cuba.

U.S. restrictions on family-related travel also impair family unity and undermine the right of Cubans and Cuban Americans to return to their own country.²⁰¹ Like Cuba, the United States is bound to respect the principles enshrined in the Universal Declaration. And unlike Cuba, the United States has ratified the ICCPR and therefore has an obligation to pursue policies that promote the rights that the Covenant recognizes. Yet, because the U.S. has failed to recognize that its travel restrictions infringe upon rights,

²⁰⁰ As Manfred Nowak has explained, "governments have a keen interest in preventing their working population or certain groups (e.g., regime critics, scientists, skilled workers) from leaving the country. It is always possible to come up with some sort of 'debt' owed the State, perhaps simply the costs that the State has 'invested' in educating these persons." He goes on to say that that restrictions on freedom of movement cannot be justified on these grounds, as "the exception would otherwise become the rule." Manfred Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary (N.P. Engel, 1993), p. 214. Nowak was writing about the restrictions on the right as defined in the ICCPR, but the same principles apply for judging restrictions under the UDHR. See also Kwado Mensah and others, "The 'Skills Drain' of Health Professionals from the Developing World: A Framework for Policy Formulation," *Medact*, February 2005, pp. 6, 27 (noting that many developing countries have tried to restrict the outflow of health workers, but that non-coercive approaches to the problem serve to respect the right to freedom of movement).

²⁰¹ The narrow definition of family contained in the restrictions is also incompatible with international standards. According to the U.N. Human Rights Committee, the term "family" used in the ICCPR must be given a broad interpretation so as "to include all those comprising the family as understood in the society of the State party concerned." ICCPR General Comment 16, UN Doc. CCPR/C/21/Add.6 (1988), para. 5.

not simply privileges, successive U.S. administrations have felt free to tighten or loosen restrictions as a matter of political discretion.

The current restrictions, by allowing family-related travel only once every three years, and allowing no humanitarian exceptions, severely limit the ability of hundreds of thousands of Cubans and Cuban-Americans to exercise their right to return to their home country.²⁰² The U.N. Human Rights Committee, as noted above, has established that “there are few, if any, circumstances” in which the limiting this right would be acceptable. Given the proven ineffectiveness of the embargo policy, and the profound hardship caused by the family-related travel restrictions, there can be little doubt that the Bush administration’s justification for its travel policy would not meet the Committee’s high standard.

²⁰² While some Cubans and Cuban-Americans are able to receive permits to travel as journalists, academic researchers, or participants in missions by religious groups, this is not an option for the vast majority.

V. Conclusion

In December 1999, at the height of the controversy surrounding Elian González, the six-year-old prevented by his Miami relatives from returning to his father in Cuba, President Fidel Castro stood before a group of school children who had been protesting outside the U.S. Interests Section in Havana and declared:

The policy pursued by the Revolution is that anyone who wants to leave our country and go somewhere else can do so if they are given permission to enter the other country. Our country does not prevent any family from emigrating, because the construction of a revolutionary and just society in socialism is a voluntary and free decision.²⁰³

It was a sound rationale for a sound policy. But, as this report has shown, it was pure fiction. Cuba routinely denies its citizens the right to leave their country. It also prevents many from returning. The result is the forced separation of families. Given the hardship that this separation can cause, Cuba's *true* travel policy provides the government a powerful tool for punishing defectors and silencing critics. And it offers stark evidence that Castro's brand of "socialism" is, for large numbers of Cubans, neither "voluntary" nor based on "free decision."

The Bush administration, meanwhile, has committed itself to promoting a "free Cuba." Yet it insists on doing so through an embargo policy that has already accumulated a four-decade track record of failure. Rather than seek a new, more effective approach to advancing democracy on the island, the administration has reinforced a fundamentally inhumane feature of the old one. In the name of promoting freedom in Cuba, the United States has undermined a basic freedom of hundreds of thousands of Cuban Americans. And, in so doing, it has inflicted profound—and in some cases irreparable—harm on countless Cuban families.

The challenge of constructing a more open and just society in Cuba is an urgent one. The solution, however, cannot be based on the disregard for the rights of individuals or the welfare of families. It is time for both the Cuban and the U.S. governments to end their inhumane travel policies.

²⁰³ Speech by President Fidel Castro, December 23, 1999, <http://www.cuba.cu/gobierno/discursos/1999/ing/f231299i.html> (retrieved September 26, 2005). Translation by Human Rights Watch.

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