

WRITTEN TESTIMONY OF
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BEFORE THE HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
AND HUMAN RIGHTS HEARING “Seeking Freedom for American Trapped in Bolivian
Prison: THE CASE OF AMERICAN JACOB OSTREICHER”

August 1, 2012

Thank you, Mr. Chairman and members of the Subcommittee, for taking the time to hear my testimony today. My name is Miriam Ungar, and I am the wife of Jacob Ostreicher, a 53 year old American citizen currently being detained in Santa Cruz, Bolivia.

As I have already testified on June 6, 2012 before this Subcommittee, I will only give a short recap of my husband’s story.

On December 26, 2010, Jacob went to Santa Cruz, Bolivia to take over management of a rice business after investors suspected that the local manager they hired was embezzling money from the company. When Jacob arrived in Bolivia, the local manager was nowhere to be found and Jacob immediately hired lawyers to start filing criminal and civil charges against her. Before she left, the local manager purchased a parcel of land from a man wanted in Brazil in the 1990’s. When Bolivian authorities realized that the company was operating on his land, they raided Jacob’s office and deposed him – even though Jacob did not purchase the land himself. Jacob cooperated fully with the authorities and notified the US Embassy of the deposition. This occurred at the height of the harvesting season. Jacob continued the harvest and successfully produced 50,000,000 lbs. of rice. After enduring two additional depositions, Jacob was arrested on June 3, 2011. At the arraignment, the prosecutors alleged criminal organization and money laundering. It is my understanding that no evidence was reviewed by the judge. Custody of the company’s assets was handed to DIRCABI, the government division in charge of confiscated goods.

Following three postponed hearings, on September 23, 2011 a judge ordered Jacob’s release on bail based on evidence submitted, only to reverse his decision six days later.

While there have been rumors as to the whereabouts of the rice, as of December 2011, we do not know where the rice is and we do not know if it was sold. \$18,000,000 worth of rice is unaccounted for. In March of 2012, a three year ban on the export of rice was lifted.

Since my husband first appeared at his arraignment in June 2011, a total of twenty-two hearings have been scheduled in his case, but only three have commenced. The rest were postponed. Of the three that commenced, one was the hearing where the judge released Jacob on bail. The second hearing was the appellate court's order to the judge to explain his decision to revoke bail. The third hearing was when the judge explained why he revoked his decision.

In my previous testimony, I noted that most of the stated excuses for the hearing postponements were illegal. During Jacob's last two scheduled hearings, on June 11 and July 23, the Bolivian Ministry of Government resorted to a new tactic to postpone Jacob's hearings.

Mr. Chairman, you were in Bolivia and attended the June 11 hearing. It is my understanding that you witnessed the Minister of Government's legal advisor demanding that the third judge on Jacob's case recuse himself. When the judge refused, he was threatened by the legal advisor that charges would be filed against him. The judge decided not to recuse himself, but then referred his decision to a higher court. By law, the higher court must make a decision within 48 hours. They failed to do that. They did not follow due process.

Forty-two days later, on July 23, 2012, the twenty-second scheduled hearing in Jacob's case, Jacob was brought into the courtroom only to hear a repeat of what occurred at the June 11 hearing. The fourth judge on Jacob's case was ordered to recuse herself by the Minister of Government's legal advisor. She refused. The legal advisor threatened to file charges against her. The judge refused, but referred it to a higher court anyway. By law, the higher court must make a decision within 48 hours. It is now August 1st. We are still waiting.

Today marks 426 days that my husband, Jacob Ostreicher, has been incarcerated in Palmasola prison without being formally charged with a crime. Palmasola is a notorious prison ruled by the most hardened criminals. Every day that Jacob remains in that prison is another day that his life remains in constant danger.

I am beyond frustrated by the Bolivian Government's consistent interference in my husband's case, resulting in a denial of his due process and basic human rights. Although I'm aware of the shortcomings of the Bolivian justice system, I believe that what my husband has endured is something more than the average prisoner in Bolivia. Evidenced by the two most recent hearings in his case, the Ministry of Government is playing an active role in preventing Jacob from having his case heard.

I would like to address a report I received from the US Embassy on its July 5, 2012 meeting with Roberto Desogus from United Nations High Commission of Human Rights in Bolivia. I received their report on July 12. Following the meeting, the US Embassy reported that it is the opinion of the UNHCHR office in Bolivia that Jacob is not being persecuted or targeted by the government, but rather he is yet another victim of a brutally slow, inefficient, underfunded and corrupt judicial system. According to the UNHCHR, the procedural delays, the rotation of prosecutors, the recusal of judges and the apparent lack of hard evidence in Jacob's case are all factors which are common in the majority of cases in the Bolivian judicial system.

As our Bolivian attorneys will attest, the totality of what Jacob has experienced is not common. Moreover, even if it was, the UNHCHR, an international body charged with upholding and advocating for international standards of human rights, should not sit idly by and accept it. Nor, in my opinion, should the US Government. Jacob is a U.S. citizen, and the US Government should do everything in its power to ensure respect for his right to due process – regardless of how unjust, slow and corrupt the justice system in Bolivia is.

I am utterly distraught and frustrated beyond words that it has been fifteen months since this crisis began, and we are still right where we were in June of 2011. We have not moved forward in this case. Fifteen months in prison just seems to flow so easily from our mouths. But fifteen months is a milestone in the life of a human being. In the fifteen months that Jacob has been kept hostage in a foreign country, his grandchildren have learned to walk, to talk, and some have even started school. These are lost milestones that can never be recovered.

In summary, Mr. Chairman, Jacob's rights are continuously being violated every second that he remains in prison. The last two hearings in his case have provided evidence that he is being targeted by the Bolivian Government, and thus, I hope the United States Government will continue to advocate for and protect its citizen.

Thank you, Mr. Chairman, for the opportunity to appear before you and this Subcommittee today.