

Cuba, at least 205 political prisoners and detainees were in jail at the end of 2008 and as many as 5,000 citizens, including 1,000 women, served sentences this year without being charged with a specific crime.

Beatings and harassment of human rights activists and political dissidents by government-recruited mobs, police, and state security officials remain commonplace. Journalists continue to be denied the right to openly criticize their government without fear of reprisal. And domestic human rights groups are not even recognized or permitted to legally function.

We all want this to change. It must change.

Yet for almost 50 years the United States has tried the same policy with Cuba, one of isolation, and it has failed.

I wish that were not true, but it is.

I believe sanctions can be an important foreign policy tool. Their use should be carefully considered on a case by case basis.

Yet after almost half a century of a failed isolation policy in terms of Cuba, don't we owe it to ourselves and the Cuban people to rethink this issue?

I am not arguing that we lift all sanctions against Cuba. The regime must begin to release its political prisoners and implement political reforms before we take any such steps.

The Cuban government must listen to the brave voices of its own people such as Oswaldo Paya, who has collected thousands of signatures for a petition given to the Cuban government requesting greater political freedoms—a petition process that is in fact allowed for under the Cuban constitution.

But President Obama was right in beginning to change U.S. policy toward Cuba.

Cuba is no longer a serious threat to the United States; we no longer need to think in black or white Cold War terms. Since that time, we have seen globalization, an unprecedented flow of information between people in different countries, and the emergence of many new countries seeking democracy.

Why should the people of Cuba be held back from the benefits of this new world? There is already limited use of the Internet and cell phones on the island—but I bet if you ask the Cuban people, they would tell you they want more access to these links to the outside world, not less. President Obama's policy of allowing telecommunications licensing on the island should help foster such access to the outside world.

We should replace the Castro regime with an open, democratic Cuba the same way we brought down the Berlin Wall and the Soviet Union. We need to expand the contact of everyday Cubans with freedom, opportunity and people whose lives are inspired by our values.

Isolation is not the answer. An invasion is the answer—but not a military invasion; the invasion of openness and freedom and new ideas.

It is not a Pollyanna-ish position to argue this. My mother was born in Lithuania. Lithuania, a Baltic nation, was under suppression by the Soviet Union after World War II, isolated, cut off from the world as was most of Eastern Europe. But then the day came when the conversation opened, when the doors opened, when the people of the Baltics and Eastern Europe could see the Western world and realize how much their lives had been denied by totalitarian rule.

I think the same thing can happen in Cuba. We should not be closing the doors to Cuba. We should throw them wide open. I had some friends who recently went to Cuba, through Mexico, with a visa. They came back and said, "You know, they are still using oxen for power in their agriculture." Yoking oxen, in the 21st century, 90 miles offshore from the United States? If they knew and could see what modern agriculture could bring to them, if they could understand what freedom meant, even more, we would have a greater chance of bringing real change to Cuba.

Earlier this year, Congress eased travel restrictions. President Obama has eased them further. The more Americans and Westerners move into Cuba, the more they will bring ideas and commerce and opportunity and change to Cuba. Isolation for 50 years has failed. Why would we cling to a failed policy?

It is a poor country, a nation that struggles with natural disasters as well as poverty of its own creation and one that would be open to change and opportunity.

I might also say that the embargo which we have imposed has hurt our chances to export food to Cuba, which is needed. We should open those opportunities in the hopes that commerce will not only feed people who are hungry but establish stronger relationships and a better understanding by the Cubans of what a free market economy could bring them. The U.S. policy of isolation strengthens the Castro dictatorship. If at a time when we should be opening the doors by closing them, we gave Castro, Fidel Castro, and his brother Raul excuses for the misfortunes that people realize in Cuba, we have an opportunity to change those things, and I certainly hope that we do.

It was interesting to me when the President of the United States went down for this Summit of the Americas, the biggest story that came out of it was the fact that he was not rude to Hugo Chavez of Venezuela, that he actually shook his hand and took a book from him.

Some of the cold warriors that I hear on television, the commentators just cannot get over that. They cannot imagine that we would change a foreign policy that we have had over the Bush administration years, a policy that sadly did not reach its intended goals of better relationships and better respect around the world.

President Obama is opening negotiations and conversations with countries

around the world and creating an opportunity, an opportunity for new freedom, an opportunity for new strength, and a new image of the United States. It may trouble some of the cold warriors of years gone by who want confrontation and lack of communication, but that certainly does not serve the needs of the 21st century.

I welcome this change that President Obama has brought to Washington. I welcome this opening of foreign policy in the hope that his approach and his image and status in the world will bring us to a safer place in the 21st century.

I yield the floor.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER (Mr. BENNET.) The Senate is in morning business with 5 minutes remaining under the majority's control.

Mr. LEAHY. Thank you, Mr. President. I want to compliment the distinguished senior Senator from Illinois for what he just said. As he knows, of course, he was the earliest supporter of his then-colleague, then-Senator Barack Obama, and he knows I also supported him very early on.

I was asked why I supported then-Senator Obama, and I said because we have to reintroduce America to the rest of the world. I believe we are a great and wonderful nation. We are the Nation of the Marshall Plan, the Peace Corps, the Nation that brought together a coalition to defeat the fascists and the Nazis and others in World War II. We are a great nation. We discovered polio vaccines. We have done so much. The rest of the world had lost sight of that. There is animosity toward our "it is our way or no way" approach. It is the "we are right you are wrong" attitude of this country and the reference to "Old Europe" and things like this that were so dismissively done. Any of us who traveled around the world realized how that was.

As a proud American, as one who believes we do live in the greatest democracy history has ever known, I wanted to reintroduce America, the America I believe in, to the rest of the world. That is why I supported Barack Obama. That is why I was glad to see President Obama reintroduce us first in Europe and then in Latin America.

The Senator from Illinois is absolutely right. It is all I hear in my State, a State that has a very strong sense of internationalism but a very strong sense of patriotism: Thank goodness somebody is showing what America is.

I commend the President for doing that.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FRAUD ENFORCEMENT AND
RECOVERY ACT OF 2009

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 386, which the clerk will report by title.

The bill clerk read as follows:

A bill (S. 386) to improve enforcement of mortgage fraud, securities fraud, financial institution fraud, and other frauds related to federal assistance and relief programs, for the recovery of funds lost to these frauds, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fraud Enforcement and Recovery Act of 2009” or “FERA”.

SEC. 2. AMENDMENTS TO IMPROVE MORTGAGE, SECURITIES, AND FINANCIAL FRAUD RECOVERY AND ENFORCEMENT.

(a) **DEFINITION OF FINANCIAL INSTITUTION AMENDED TO INCLUDE MORTGAGE LENDING BUSINESS.**—Section 20 of title 18, United States Code, is amended—

(1) in paragraph (8), by striking “or” after the semicolon;

(2) in paragraph (9), by striking the period and inserting “; or”; and

(3) by inserting at the end the following:

“(10) a mortgage lending business (as defined in section 27 of this title) or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1).”

(b) **MORTGAGE LENDING BUSINESS DEFINED.**—

(1) **IN GENERAL.**—Chapter 1 of title 18, United States Code, is amended by inserting after section 26 the following:

“§27. Mortgage lending business defined.

“In this title, the term ‘mortgage lending business’ means an organization which finances or refinances any debt secured by an interest in real estate, including private mortgage companies and any subsidiaries of such organizations, and whose activities affect interstate or foreign commerce.”

(2) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 1 of title 18, United States Code, is amended by adding at the end the following:

“27. Mortgage lending business defined.”

(c) **FALSE STATEMENTS IN MORTGAGE APPLICATIONS AMENDED TO INCLUDE FALSE STATEMENTS BY MORTGAGE BROKERS AND AGENTS OF MORTGAGE LENDING BUSINESSES.**—Section 1014 of title 18, United States Code, is amended by—

(1) striking “or” after “the International Banking Act of 1978,”; and

(2) inserting after “section 25(a) of the Federal Reserve Act” the following: “or a mortgage lending business whose activities affect interstate or foreign commerce, or any person or entity that makes in whole or in part a federally related mortgage loan as defined in 12 U.S.C. 2602(1)”.

(d) **MAJOR FRAUD AGAINST THE GOVERNMENT AMENDED TO INCLUDE ECONOMIC RELIEF AND TROUBLED ASSET RELIEF PROGRAM FUNDS.**—Section 1031(a) of title 18, United States Code, is amended by—

(1) inserting after “or promises, in” the following: “any grant, contract, subcontract, subsidy, loan, guarantee, insurance or other form of Federal assistance, including through the Troubled Assets Relief Program, an economic stimulus, recovery or rescue plan provided by the Government, or the Government’s purchase of any preferred stock in a company, or”; and

(2) striking “the contract, subcontract” and inserting “such grant, contract, subcontract,

subsidy, loan, guarantee, insurance or other form of Federal assistance.”.

(e) **SECURITIES FRAUD AMENDED TO INCLUDE FRAUD INVOLVING OPTIONS AND FUTURES IN COMMODITIES.**—

(1) **IN GENERAL.**—Section 1348 of title 18, United States Code, is amended—

(A) in the caption, by inserting “and commodities” after “Securities”; and

(B) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “any person in connection with”; and

(C) by inserting “any commodity for future delivery, or any option on a commodity for future delivery, or” after “in connection with the purchase or sale of”.

(2) **CHAPTER ANALYSIS.**—The item for section 1348 in the chapter analysis for chapter 63 of title 18, United States Code, is amended by inserting “and commodities” after “Securities”.

(f) **MONEY LAUNDERING AMENDED TO DEFINE PROCEEDS OF SPECIFIED UNLAWFUL ACTIVITY.**—

(1) **MONEY LAUNDERING.**—Section 1956(c) of title 18, United States Code, is amended—

(A) in paragraph (8), by striking the period and inserting “; and”; and

(B) by inserting at the end the following:

“(9) the term ‘proceeds’ means any property derived from or obtained or retained, directly or indirectly, through some form of unlawful activity, including the gross receipts of such activity.”

(2) **MONETARY TRANSACTIONS.**—Section 1957(f) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) the terms ‘specified unlawful activity’ and ‘proceeds’ shall have the meaning given those terms in section 1956 of this title.”

(g) **MAKING THE INTERNATIONAL MONEY LAUNDERING STATUTE APPLY TO TAX EVASION.**—Section 1956(a)(2)(A) of title 18, United States Code, is amended by—

(1) inserting “(i)” before “with the intent to promote”; and

(2) adding at the end the following:

“(ii) with the intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or”.

SEC. 3. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR MORTGAGE FRAUD, SECURITIES FRAUD, AND OTHER CASES INVOLVING FEDERAL ECONOMIC ASSISTANCE.

(a) **IN GENERAL.**—

(1) **AUTHORIZATION.**—There is authorized to be appropriated to the Attorney General, to remain available until expended, \$165,000,000 for each of the fiscal years 2010 and 2011, for the purposes of investigations, prosecutions, and civil proceedings involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(2) **ALLOCATIONS.**—With respect to fiscal years 2010 and 2011, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

(A) Federal Bureau of Investigation: \$75,000,000 for fiscal year 2010 and \$65,000,000 for fiscal year 2011.

(B) The offices of the United States Attorneys: \$50,000,000.

(C) The criminal division of the Department of Justice: \$20,000,000.

(D) The civil division of the Department of Justice: \$15,000,000.

(E) The tax division of the Department of Justice: \$5,000,000.

(b) **ADDITIONAL APPROPRIATIONS FOR THE POSTAL INSPECTION SERVICE.**—There is authorized to be appropriated to the Postal Inspection Service of the United States Postal Service, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, in-

cluding financial institutions to which this Act and amendments made by this Act apply.

(c) **ADDITIONAL APPROPRIATIONS FOR THE INSPECTOR GENERAL FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.**—There is authorized to be appropriated to the Inspector General of the Department of Housing and Urban Development, \$30,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(d) **ADDITIONAL APPROPRIATIONS FOR THE UNITED STATES SECRET SERVICE.**—There is authorized to be appropriated to the United States Secret Service of the Department of Homeland Security, \$20,000,000 for each of the fiscal years 2010 and 2011 for investigations involving Federal assistance programs and financial institutions, including financial institutions to which this Act and amendments made by this Act apply.

(e) **USE OF FUNDS.**—The funds authorized to be appropriated under subsections (a), (b), (c), and (d) shall be limited to cover the costs of each listed agency or department for investigating possible criminal, civil, or administrative violations and for prosecuting criminal, civil, or administrative proceedings involving financial crimes and crimes against Federal assistance programs, including mortgage fraud, securities fraud, financial institution fraud, and other frauds related to Federal assistance and relief programs.

(f) **REPORT TO CONGRESS.**—Following the final expenditure of all funds appropriated under this section that were authorized by subsections (a), (b), (c), and (d) the Attorney General, in consultation with the United States Postal Inspection Service, the Inspector General for the Department of Housing and Urban Development, and the Secretary of Homeland Security, shall submit a joint report to Congress identifying—

(1) the amounts expended under subsections (a), (b), (c), and (d) and a certification of compliance with the requirements listed in subsection (e); and

(2) the amounts recovered as a result of criminal or civil restitution, fines, penalties, and other monetary recoveries resulting from criminal, civil, or administrative proceedings and settlements undertaken with funds authorized by this Act.

SEC. 4. CLARIFICATIONS TO THE FALSE CLAIMS ACT TO REFLECT THE ORIGINAL INTENT OF THE LAW.

(a) **CLARIFICATION OF THE FALSE CLAIMS ACT.**—Section 3729 of title 31, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **LIABILITY FOR CERTAIN ACTS.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), any person who—

“(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

“(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;

“(C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);

“(D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;

“(E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;

“(F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or