HEARING ON H.R. 1004, PROHIBITING UNAUTHORIZED MILITARY ACTION IN VENEZUELA ACT

HEARING

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

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HEARING ON H.R. 1004, PROHIBITING UNAUTHORIZED MILITARY ACTION IN VENEZUELA ACT

WEDNESDAY, MARCH 13, 2019

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC

The committee met, pursuant to notice, at 4:05 p.m., in Room 2172, Rayburn House Office Building, Hon. Eliot L. Engel (chairman of the committee) presiding.

Chairman ENGEL. The committee will come to order. Without objection, all members may have 5 days to submit statements, questions, and extraneous materials for the record, subject to the length limitation in the rules.

This afternoon, the committee continues its examination of the ongoing crisis in Venezuela, with particular focus on legislation offered by a member of this committee, Mr. David Cicilline of Rhode Island. That bill is H.R. 1004, the Prohibiting Unauthorized Military Action in Venezuela Act. Mr. Cicilline will testify on this bill presently, then we will welcome a second panel of experts.

My position on Venezuela has been clear: I believe that the United States and our allies in the Lima Group and the European Union must continue to squeeze Nicolas Maduro and push for a peaceful, democratic transition. The suffering in Venezuela is a man-made humanitarian crisis in what was once the wealthiest country in South America. The people of Venezuela deserve far better than what Mr. Maduro's dictatorship and his predecessor, Mr. Chavez, have given them. And I stand with Juan Guaido as he bravely leads his fellow citizens toward a brighter future.

At the same time, we must be clear: U.S. military intervention to shape the future of Venezuela is not an option. I continue to worry about the Administration's saber rattling and constant reminders that military action remains on the table. The Lima Group, which includes Argentina, Brazil, Chile, and Colombia, the EU, and even my friend, former Colombian President Alvaro Uribe, have rejected that possibility. Our former SOUTHCOM commander, Admiral James Stavridis, has written powerfully about the perils of U.S. military intervention in Venezuela.

Today's hearing is to explore this issue in greater detail.

Now, I have heard arguments that we in Congress should not debate the use of force in Venezuela, that we should wait and see what course the President takes before we take up this issue. I disagree. Under Article I of the Constitution, Congress desides whether America will go to war; under Article II, the President has the

power to defend our country, but that is not what we are talking about here.

The longer I have been in Congress, the stronger I feel that the Congress declares whether or not we should go to war. And, of course, we have not been doing that since 1941.

The Constitution and the War Powers Resolution are clear that it is our responsibility to consider the use of force before any troops are introduced into hostilities. The law requires, and I quote, the President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities, unquote.

And the President's obligation does not end with consultation. If he decides to deploy our military, he needs congressional authorization before they are introduced into hostilities.

I will be the first to admit that Congress has not done a good job in holding administrations of both parties to the letter of the law. We have handed over the keys for too long, and the executive branch has left Congress in the dust. We should not stand for it anymore, and I am not going to put off this debate a day longer. These are the gravest decisions our government must face, and we must do so only as the Constitution provides.

As I have said again and again, I oppose military intervention in Venezuela. But since the Administration keeps raising the possibility, I want to know what would it look like, how does the Administration see this playing out. I would like to think after our disastrous war in Iraq, we have learned our lesson about plunging the United States into another war without a clear path forward. And let us not forget, Venezuela is more than twice the size of Iraq.

Would Maduro's colectivos join with rogue elements of the Venezuelan security forces and develop into an insurgency, what would be the impact of such a conflict be on Colombia, a country that has opened up its heart and homes to over a million Venezuelan migrants? Would a government that comes to power with the backing of the U.S. intervention have any legitimacy in the eyes of the Venezuelan people and other governments in the region?

These questions barely scratch the surface, which is why it is so important that this committee deal with the serious and weighty concerns that accompany a military intervention before it occurs, not after it has already begun.

I would like to close with this reminder: I did not call this hearing and Mr. Cicilline did not introduce his legislation as a solution in search of a problem. We have a problem when the Administration keeps telling us that the use of force remains on the table.

Frankly, I would rather be focusing on how to support the people of Venezuela in their struggle for a better future. Tomorrow we will be considering three bills that would do so.

But as a coequal branch of government with key responsibilities, dealing with questions of war and peace, we cannot just stand here and shrug our shoulders. We cannot wait for American servicemembers to be placed in harm's way and then start to ask questions.

So I hope we have an instructive discussion this afternoon. I will now yield to our ranking member, Mr. McCaul of Texas, for any opening remarks he might have.

Mr. MCCAUL. Thank you, Mr. Chairman.

The situation in Venezuela is really going from bad to worse. For the past week, the country has been struggling with nationwide energy blackouts, there are shortages of food and medicine. Simply put, this is a result of Nicolas Maduro's socialist policies, criminal activity, and corruption.

Over 3 million people have fled the country, with more escaping every day. Maduro has even turned his armed thugs or colectivos against those who are trying to deliver humanitarian aid.

Our colleague and witness today, Congressman Cicilline, previously stated that the Maduro regime's corruption and negligence has devastated Venezuela's economy, starved its people, and brought the Nation to the brink of collapse. I could not agree more.

All clear-eyed and freedom-loving people around the world want to see Maduro gone so free and fair elections can be held. To make that happen, Maduro and his cronies must understand that the best outcome for them is to step down and leave the country peacefully. I know all of us want that as well. However, this legislation we are discussing today jeopardizes that outcome in several ways by appearing to take military force off the table.

First, it immediately takes pressure off the regime with punishing sanctions, a coalition of 54 countries supporting the opposition, and massive protests. Maduro is feeling the heat. We should not give him reason to breathe a sigh of relief.

Second, it would put the security of Juan Guaido and his family in jeopardy, something I personally talked to the Vice President about. Maduro could easily become more aggressive in cracking down on the opposition. In fact, Ambassador Vecchio, I talked to this morning, told me that the attorney general has applied for a writ in the Venezuelan Supreme Court to arrest President Guaido. This could all lead to violence and potential casualties.

As I said just yesterday, the attorney general launched a baseless investigation of Guaido for an alleged attack on the power grid. So the threat is real. We should not undermine the security of the very people we are trying to support, the people of Venezuela.

Third, it sends the wrong signal to both our allies and adversaries. Without the threat of military force, it will look like we are hedging our bets. This will deflate Juan Guaido and his supporters and embolden our enemies, Russia and Cuba. This bill also plays right into the Maduro regime's strategy.

Just last month, in remarks at the United Nations, Maduro's illegitimate foreign minister called on the Security Council to reject the threat of the use of force against the Venezuelan people.

Finally, it will show a divided Congress, something the Ambassador has warned us about. As I said, I have personally spoken with the Vice President and Special Representative Elliott Abrams, and as recent as this afternoon with the Ambassador Carlos Vecchio, who all expressed concern about discussing this bill at this critical time. They all stress the need for bipartisan unity.

Maduro's repeated mention of U.S. military intervention is simply a ploy to divide the coalition of 54 countries supporting democracy and the people of Venezuela. Opponents of this legislation are not pushing for military actions. I for myself am a strong believer

in the sole power of Congress to declare war under Article I of the Constitution.

I do not believe that this administration is planning to invade Venezuela. And if it did, I would be the first to push Congress to act. But this premature signal sends a dangerous message at a very delicate time. The nations that support Maduro's illegitimate regime, especially Cuba and Russia, are the very ones carrying out the real foreign intervention.

As Secretary Pompeo recently stated, the United States is drawing a clear line between those who aid forces of repression and those who give life to the Venezuelan people's democratic dreams. One immediate step we can all take here today is to show our solidarity with the people of Venezuela and to directly recognize interim President Juan Guaido as the legitimate President of Venezuela just as 54 other countries have. I strongly do and encourage my democratic colleagues to do so today as well.

The people of Venezuela have suffered enough. They are finally on the verge of taking their country back. Let us not do this bill. Let us not let this bill complicate their efforts to achieve freedom from socialist tyranny, and put an end to this humanitarian crisis and disaster.

With that, Mr. Chairman, I yield back.

Chairman ENGEL. Thank you very much, Mr. McCaul.

Let me now introduce our first witness, though he is certainly well known to all of us. David Cicilline has represented Rhode Island's First congressional District in the House since 2011. He is a senior member of this committee and chairman of the Judiciary Subcommittee on Antitrust, Commercial and Administrative Law. And he is the author of H.R. 1004, the Prohibiting Unauthorized Military Action in Venezuela Act.

Mr. Cicilline, you are recognized to offer your testimony.

STATEMENT OF THE HON. DAVID CICILLINE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF RHODE ISLAND

Mr. CICILLINE. Thank you, Mr. Chairman. Thank you, Ranking Member McCaul and distinguished colleagues on this committee. I appreciate the opportunity to speak about my legislation, H.R. 1004, the Prohibiting Unauthorized Military Action in Venezuela Act.

I appreciate the committee's willingness to take on the important issue of executive overreach in military engagement, an issue that is fundamental to the constitutional role of Congress and on which there is bipartisan agreement that Congress must take a stronger stand in ensuring appropriate consultation and oversight.

As we meet here this afternoon, the people of Venezuela are suffering in darkness, literally. Millions have been without power for days. We all agree the Maduro regime has destroyed Venezuela's economy, starved its people, and engaged in widespread corruption and repression. We all agree the people of Venezuela deserve a better future, a future they determine. We all believe the Venezuelan people have a right to pick their leaders, a right Maduro has denied his people by refusing to hold free and fair elections.

To be absolutely clear, Nicolas Maduro is a dictator who does not care about the Venezuelan people. Maduro's corrupt kleptocratic re-

gime has left Venezuela's economy in shambles, its people without food, and its hospitals without basic medicines. Millions have fled this despair and oppression.

The people of Venezuela deserve better. They deserve a democratic future. They deserve to pick their own leaders, which is why I joined many of my colleagues in supporting the Venezuelan National Assembly's decision to choose Juan Guaido as the interim President of Venezuela.

It is my hope that there will be a diplomatic solution that allows for free and fair elections in the near future, and I believe U.S. policy should be conducted with this end in mind. As the chairman said, we would not be here and considering this legislation, but for the actions and words of the Trump administration.

This administration's rhetoric implying that they are willing to use military force in Venezuela is unfortunate. Not only would military intervention be illegal; it would also come with serious consequences that I fear would not only hurt the Venezuelan people, but also the prospect for democracy.

Under the Constitution and War Powers Act, the President may not take unilateral military action and must consult with and receive authorization from Congress. As Special Representative Elliott Abrams confirmed when he was testifying here before this committee, the conditions for unilateral Presidential military action have not been met. Congress has not declared war on Venezuela. There is not any existing statutory authorization that would allow for military intervention in Venezuela. And Venezuela has not attacked the United States, its territories or possessions or its Armed Forces.

That is why I introduced this legislation, which would simply prohibit funds from being spent on any unauthorized military engagement in Venezuela. Although the Administration is well aware they do not have proper authorization to engage in a military action in Venezuela, they have continued the drumbeat of aggressive saber rattling rhetoric promoting military intervention as an option.

We know from the past they have not seen the need to seek proper congressional approval for military intervention when they took action against the Assad regime in Syria without proper authorization. In my view, military action in Venezuela is not an option, not without congressional authorization.

To be clear, nothing in this bill prevents military action against or in Venezuela or anywhere else. It simply prohibits funds to be used for unauthorized military action in Venezuela. Should the situation in Venezuela pose an imminent threat to American national security, nothing in this bill stops the Administration or any administration from seeking authority from Congress for military intervention per the War Powers Act.

However, without meeting the conditions under the War Powers Act, any U.S. military action with respect to Venezuela would be illegal and ill-advised. Americans do not want another foreign military engagement, and the Administration has not made any case for military intervention in Venezuela.

The United States must continue to work with the Lima Group, Europeans, and the international community to use diplomatic and

economic tools to pressure Maduro to honor the will of his people. Humanitarian aid must be allowed into the country to aid the suffering Venezuelan people. Congress should do everything in its power to support a peaceful, truly democratic transition of power in Venezuela.

The Constitution gave Congress, not the executive branch, the power to determine when the United States goes to war. And it is time we assert our constitutional duty and send a clear message that without congressional authorization, this administration or any administration cannot take the country to war unilaterally.

It is also worth noting that many foreign policy experts have noted that Maduro uses the threat of military action in his propaganda campaign to try to say in power. I am sensitive to the arguments that my colleagues may make that the timing is sensitive and we do not want to do anything to seem like we are supporting a dictator. While I appreciate the sincerity of my colleagues' arguments, I have to say, when will the timing of military intervention not be sensitive?

We are 18 years into war in Afghanistan, 16 years in Iraq, engaged in various ways in numerous engagements elsewhere, and yet Congress has never found time to reassert our control over military engagement. It is also important to note that the absence of congressional action sends its own message. The time for Congress to weigh in is now.

I am thankful to the more than 50 bipartisan cosponsors, many of them members of this committee who are supporting this bill. I want to thank you, Chairman Engel, Ranking Member McCaul, for how holding this important hearing and for considering this piece of legislation. And I look forward to the committee holding a mark-up and passing this legislation in the near future. And I thank you again.

[The statement of Mr. Cicilline follows:]

Congressman David N. Cicilline
Opening Statement
House Foreign Affairs Committee Hearing on H.R. 1004
Prohibiting Unauthorized Military Action in Venezuela Act
March 13, 2019

Mr. Chairman, Ranking Member, colleagues on the Committee,

Thank you for giving me the opportunity to speak about my bill, H.R. 1004 the Prohibiting Unauthorized Military Action in Venezuela Act.

I appreciate the Committee's willingness to take on the important issue of executive overreach in military engagement, an issue that is fundamental to the constitutional role of Congress, and on which there is bipartisan agreement that Congress must take a stronger stand in ensuring appropriate consultation and oversight.

As we meet here this morning, the people of Venezuela are suffering in darkness – literally. Millions have been without power for days. We all agree the Maduro regime has destroyed Venezuela's economy, starved its people, and engaged in widespread corruption and repression. We all agree the people of Venezuela deserve a better future, a future they determine. We all believe the Venezuelan people have a right to pick their leaders, a right Maduro has denied his people by refusing to hold free and fair elections.

To be absolutely clear – Nicolas Maduro is a dictator who doesn't care about the Venezuelan people. Maduro's corrupt, kleptocratic regime has left Venezuela's

economy in shambles, its people without food, and its hospitals without basic medicines. Millions have fled this despair and oppression.

The people of Venezuela deserve better. They deserve a democratic future. They deserve to pick their own leaders, which is why I join many of my colleagues in supporting the Venezuelan National Assembly's decision to choose Juan Guaido as the interim president of Venezuela. It is my hope that there will be a diplomatic solution that allows for free and fair elections in the near future, and that I believe U.S. policy should be conducted with this end in mind.

This Administration's rhetoric implying that they are willing to use military force in Venezuela is unfortunate. Not only would military intervention be illegal, it would also come with serious consequences that I fear would not only hurt the Venezuelan people, but also the prospects for democracy. Under the Constitution and War Powers Act, the President may not take unilateral military action and must consult with and receive authorization from Congress.

As Special Representative Eliott Abrams confirmed when he was here testifying before this Committee, the conditions for unilateral Presidential military action have not been met: Congress has not declared war on Venezuela; there is not any existing statutory authorization that would allow for a military intervention in Venezuela; and Venezuela has not attacked the United States, its territories or possessions, or its armed forces.

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a military engagement in Venezuela, they have continued the drumbeat of aggressive, saber-rattling rhetoric promoting military intervention as an option. We know from the past that they have not seen the need seek proper congressional approval for military intervention, when they took action against the Assad regime in Syria without proper authorization.

In my view, military action in Venezuela is not an option – not without Congressional authorization.

To be clear, nothing in this bill prevents military action against in Venezuela or anywhere else – it simply prohibits fund to be used for *unauthorized* military action against Maduro. Should the situation in Venezuela pose an imminent threat to American national security, nothing in this bill stops the Administration, or any Administration from seeking authority from Congress for military intervention, per the War Powers Act.

However, without meeting the conditions under the War Powers Act, any U.S. military action with respect to Venezuela would be illegal – and ill-advised. Americans do not want another foreign military engagement, and the Administration has not made any case for intervention in Venezuela.

The United States must continue to work with the Lima Group, Europe, and the international community to use diplomatic and economic tools to pressure Maduro to honor the will of his people. Humanitarian aid must be allowed into the country to aid the suffering Venezuelan people. Congress should do everything in its power to support a peaceful, truly democratic transition of power in Venezuela.

The Constitution gave Congress – not the Executive Branch – the power to determine when the United States goes to war. And it is time we assert our Constitutional duty and send a clear message that without Congressional authorization, this Administration – or any Administration -- cannot take the country to war unilaterally.

I am sensitive to the arguments that my colleagues may make, that the timing is sensitive, we don't want to do anything to seem like we're supporting a dictator. While I appreciate the sincere arguments of my colleagues, I have to say – when will the timing of military intervention not be sensitive? We are eighteen years into war in Afghanistan, sixteen years in Iraq, engaged in various ways in numerous engagements elsewhere, and yet Congress has never found the time to reassert our control over military engagement. It is also important to note that the absence of Congressional action sends its own message. The time for Congress to weigh in is now.

I am thankful to the more than fifty bipartisan co-sponsors, many of them members of this Committee, who are supporting this bill.

Thank you, Chairman Engel and Ranking Member McCaul for holding this important hearing and for considering this piece of legislation. I look forward to the Committee holding a markup and passing this legislation in the near future.

Chairman ENGEL. Well, thank you very much, Mr. Cicilline.

We will now pause to allow our second panel of witnesses to take their seats.

Chairman ENGEL. Well, good afternoon. Let me welcome our witnesses. Dr. Rebecca Bill Chavez is a nonresident senior fellow at the Inter-American Dialogue. She previously served as Deputy Assistant Secretary of Defense for Western Hemisphere Affairs, from 2013 until 2017, as a senior advisor to the Secretary of Defense on Latin America. Dr. Chavez focused on supporting the Colombian Ministry of Defense's role in the FARC peace process, increasing Mexico's commitment to regional security cooperation, and shaping DoD contributions to President Obama's Central American strategy.

Dr. Vanessa Neumann is the founder and president of Asymmetrica, a consultancy on political risk and strategies to dismantle illegal trade. She served for 4 years at the OECD, where she worked on the task force on countering illicit trade. Dr. Neumann has been published in The Wall Street Journal, the Guardian, and is an author of the 2017 book, "Blood Profits: How American Consumers Unwittingly Fund Terrorists."

And to introduce our third witness, I will yield to Mr. Espaillat of New York.

Mr. ESPAILLAT. Thank you, Mr. Chairman, Ranking Member.

Before I do that, I just want to acknowledge an 8th grade class here from Harlem Academy that I met outside of the hearing room, Mr. Chairman.

I spoke to them a little bit about Venezuela, and they seem to know a little bit more than many of us here, so maybe they have a bright future.

But I am proud to introduce Professor Deborah Pearlstein, a professor of constitutional international law at Cardozo Law School, a part of Yeshiva University, whose main campus is right in the middle of my district. A leading voice on law and counterterrorism, Professor Pearlstein has held positions at Princeton, Georgetown, and the University of Pennsylvania. She also currently serves on the editorial board of the Journal of National Security Law and Policy.

Professor Pearlstein has researched, written, litigated, and advocated extensively on the human rights impact of the U.S. National Security Policy and U.S. detention and interrogation operations. And from 2003 to 2007, she served as the founding director of the law and security program at Human Rights First. Throughout her tenure, Professor Pearlstein worked closely with members of the defense and intelligence community, including helping to bring together retired military leaders to address key policy challenges in U.S. counterterrorism operations.

Thank you for your time this morning, Professor, and welcome.

Chairman ENGEL. Thank you.

I will now recognize our witnesses to offer their opening comments. Why do not we start with you, Dr. Chavez.

STATEMENT OF REBECCA BILL CHAVEZ, PH.D., NON-RESIDENT SENIOR FELLOW, INTER-AMERICAN DIALOGUE

Ms. CHAVEZ. Chairman Engel, Ranking Member McCaul, members of the committee, thank you for the opportunity to testify on potential U.S. military intervention in Venezuela. And thank you also for your bipartisan commitment to maintaining focus on Venezuela and to helping resolve the crisis there.

My name is Rebecca Bill Chavez. I am a senior fellow at the Inter-American Dialogue. From 2013 until January 2017, I served as Deputy Assistant Secretary of Defense for the Western Hemisphere, where I oversaw U.S. defense policy in the hemisphere. Before that, I was a tenured professor of political science at the U.S. Naval Academy.

I am deeply troubled by the humanitarian crisis and the unraveling of democracy under Nicolas Maduro, a brutal and corrupt dictator. And I want to be clear here, Maduro stands at the center of Venezuela's manmade disaster. He has followed Hugo Chavez' footsteps by systematically dismantling democratic institutions and shamelessly violating human rights.

The U.S. has a role in resolving the impasse, but the question today is whether the U.S. should use military force to remove Maduro from power. My answer is no. I will highlight two reasons for this.

First, military intervention would be much more difficult than many believe. It would not be quick, and it would involve engagement with the Venezuelan military, armed civilians, and non-State actors.

Second, international pressure via regional partners and European allies is one of our most important tools. We will squander that partnership if we continue to threaten military intervention and much more so if we do intervene militarily in Venezuela. We also risk losing the trust so painstakingly built in the region over the past couple of decades.

There have been many references to the 1989 invasion of Panama as a potential template. This comparison is very misguided. At the time of Operation Just Cause, SOUTHCOM was headquartered in Panama, so logistics and intel collection were relatively easy. The conflict lasted less than 2 weeks and required 24,000 U.S. troops.

Venezuela is a mountainous country, twice the size of Iraq, with multiple urban centers, which would mean thousands of civilian casualties. An invasion would likely require between 100,000 and 150,000 U.S. troops, four to six times the number needed in Panama. In Panama, U.S. Forces had to contend with 4,000 Panamanian combat troops. The Venezuelan military is comprised of 356,000 members. And, unfortunately, defections have not been on the scale that we had hoped.

Maduro has deftly used both carrots and sticks to ensure military loyalty. Chavez' practice of purging anyone seen as a threat has continued under Maduro. On the carrot side, Maduro gave officers control over food distribution, a lucrative black market. Promotions have been given for loyalty, which is why there are over 2,000 generals in Venezuela. But the military would not be the only challenge.

Our troops would face an insurgency comprised of armed groups, such as the violent colectivos, and nonState actors with access to funding through drug trafficking, illegal mining, and extortion. Even Colombian ELN guerillas and dissident FARC members would have incentives to join the fight, and the conflict would certainly spill over into Colombia, adding to Colombia's challenges as it struggles to implement the 2016 Peace Accord.

Another consequence would be the unraveling of the hard fought regional and international consensus that has marginalized Maduro. The vast majority of our partners have unequivocally stated their opposition to military intervention, including Lima Group members Colombia and Brazil. A military intervention would set us back at a time when China and Russia are gaining influence in the region.

For these reasons, it is critical that Congress play a role in any decision to intervene militarily in Venezuela. Congressman Cicilline's proposed legislation would help accomplish that goal.

Thank you again for shining a light on what is happening in Venezuela. I would be more than happy to assist the committee as it formulates policy approaches to address the ongoing tragedy in Venezuela.

[The statement of Ms. Chavez follows:]

Testimony of Rebecca Bill Chavez
Hearing on Prohibiting Unauthorized Military Action in Venezuela Act
House Committee on Foreign Affairs
March 13, 2019

Chairman Engel, Ranking Member McCaul, and members of the Committee, thank you for the opportunity to testify today on potential United States military intervention in Venezuela. I also want to express my gratitude to this Committee for its bipartisan commitment to maintaining focus on Venezuela and to helping resolve the crisis there.

My name is Rebecca Bill Chavez. I am currently a Senior Fellow at the Inter-American Dialogue, a think tank dedicated to analyzing, debating, and finding consensus solutions to the core issues we confront as a hemisphere. From 2013 until January 2017, I served as Deputy Assistant Secretary of Defense for Western Hemisphere Affairs where I oversaw defense policy involving the countries of the hemisphere and defense cooperation programs in the U.S. Northern Command and U.S. Southern Command areas of responsibility. Before that, I was a tenured professor at the United States Naval Academy, focusing on democratization and security in Latin America and the Caribbean.

I have spent my policy and academic careers focused on U.S.-Latin American relations, Latin American political systems, security, and the rule of law. As a close observer of the region, I am deeply troubled by the humanitarian crisis and the dramatic unraveling of democracy under Nicolás Maduro, a brutal and corrupt dictator.

A core question raised by this hearing is whether the United States should use military force to remove Maduro from power in Venezuela. My answer, which reflects the position of many other U.S. defense and foreign policy experts, is no. The negative consequences of military action to Venezuela, to the region, and to the interests of the United States are clear and foreseeable.

In my testimony today I will highlight two broad reasons for avoiding U.S. military intervention in Venezuela.

First, any military intervention would be much more difficult than many believe; it would not be quick and it could involve engagement with elements of the Venezuelan military loyal to Maduro, armed civilians, and non-state actors.

Second, one of our most important tools is international pressure via our regional partners and European allies. We will squander that goodwill and partnership if we continue to threaten military intervention — and even more so if we intervene militarily. Given our history in the region, we will risk losing the trust so painstakingly built since the end of the Cold War.

For the above reasons, it is critical that Congress play a role in any decision to engage in military activity in Venezuela. Congressman Cicilline's proposed legislation, the Prohibiting Unauthorized Military Action in Venezuela Act, would help accomplish that goal. Its introduction is a welcome reminder of the need to think through very carefully military engagement in Venezuela.

The Current Situation in Venezuela

I want to be clear: Nicolás Maduro is responsible for the tragedy that has enveloped Venezuela. He stands at the center of Venezuela's man-made disaster. Maduro came to power as the handpicked successor of Hugo Chavez, and he assumed his second term through a rigged election in 2018. He has followed in Chavez's footsteps by systematically dismantling democratic institutions and shamelessly violating human rights. Multiple indicators demonstrate that Maduro has led Venezuela to state failure:

Economic Free Fall. Venezuela was once one of the most prosperous countries in Latin America, but today the economy is in free fall. Gross Domestic Product has shrunk by half since 2013, and the International Monetary Fund expects hyperinflation in Venezuela to reach a staggering ten million percent this year. And, though Venezuela has the largest oil reserves in the world, incompetence, mismanagement, and corruption have led to a 60 percent decrease in oil production output since 2013, from 2.9 million barrels per day to 1.2 million barrels per day. This drop in output detrimentally impacts Venezuela's ability to service its debt of $150 billion, which is over five times its exports.

Extreme Poverty. Ninety percent of Venezuelans live in poverty, and Maduro is literally starving his people. Much has been written about the "Venezuelan diet," a reference to the fact that the average weight loss has been 24 pounds. We've seen images of skeletal babies dying because there is no formula, not even in emergency rooms, and the recent video released by Univision's Jorge Ramos of hungry young men rummaging for food in the back of a garbage truck.

Virtually Non-Existent Access to Healthcare. The speed at which Venezuela is losing access to essential medicine is like that of a war zone. The Pharmaceutical Federation of Venezuela reports an 85 percent shortage of medicine. In 2016, infant mortality increased by 30 percent and malaria infections rose by 75 percent. The country is also facing severe outbreaks of diphtheria and measles. The blackouts of recent days have exacerbated the medical crisis. Ninety percent of dialysis units were paralyzed, hospitals turned away pregnant women because they were unable to perform cesarean sections, and panicked nurses searched for manual resuscitators to keep premature babies alive.

Rampant Crime. Venezuela has become one of the most dangerous countries in the world. Many have turned to criminal activity such as robbery and kidnapping to survive. According to the Venezuelan Violence Observatory, the country had a homicide rate of 89 per 100,000 people in 2017. That rate dropped to 81.4 per 100,000 people, but only because even criminals are struggling to get by and therefore fleeing the country, according to a recent *Washington Post* report.

Refugee Crisis. Of the 3.4 million Venezuelans who have left Venezuela, 2.7 million have emigrated since 2015. Some estimate that the diaspora is even larger. That's over 10 percent of the country's overall population. Regional governments are struggling to cope with the humanitarian and political fallout from what is the largest mass migration in modern Latin American history.

The Consequences of U.S. Military Intervention in Venezuela

The Venezuelan people deserve a democratically elected and accountable government that delivers public services and provides citizen security, and the temptation to look for a quick fix given the level of human suffering is understandable. However, as noted above, U.S. military intervention in Venezuela would have foreseeable negative consequences.

A Long and Difficult Engagement

Over the past few weeks, there have been many references to the 1989 invasion of Panama that overthrew Manuel Noriega as a potential template for action in Venezuela. The two are not comparable. At the time of Operation Just Cause, U.S. Southern Command was headquartered in Panama, so intelligence collection was relatively easy and the headquarters functioned as a sort of forward operating location. The conflict itself lasted less than two weeks, and involved 24,000 U.S. troops, 13,000 of whom were already in Panama.

An invasion of Venezuela would likely require between 100,000 and 150,000 U.S. troops over a long period time under conditions of asymmetrical warfare. As a mountainous country twice the size of Iraq with multiple large urban areas, Venezuela would pose serious logistical challenges to an invading force. There would be thousands of civilian casualties. U.S. military intervention could create the need for a long-term occupation by setting the stage for prolonged low intensity conflict, with resistance from powerful elements of the military that will remain loyal to Maduro in addition to armed civilians and formidable non-state actors with access to funding through illicit activity such as drug-trafficking, illegal mining, and extortion.

The challenge posed by Venezuela's military is acute. In Panama, the U.S. had to contend with only 4,000 Panamanian combat troops. In contrast, the National Bolivarian Armed Forces of Venezuela is comprised of 356,000 members. Defections have not been on the scale that we hoped because both Chavez and Maduro have deftly used both carrots and sticks to make sure that the fate of the armed forces has been tied closely to their own. After the 2002 coup attempt, Chavez expelled any soldier that he suspected might challenge him, and the practice of purging anyone seen as a threat has continued. With the help of Cuban advisors, the Maduro regime monitors closely the military for signs of dissent.

On the carrot side, promotions have been based on loyalty, which is why there are over 2,000 Venezuelan generals. Maduro also rewards loyalty with lucrative government positions, giving officers a stake in preserving his control. Approximately half of the country's governors are current or retired military officers, and current or retired officers lead about one-third of the country's ministries. Control over food distribution has been one of the most powerful patronage tools to buy off members of the military. It has not only allowed officers to feed their families, it has also given them control over the profitable black market in food, a major source of illicit enrichment.

Although it is true that some Venezuelans would welcome an invasion, it is unrealistic to think that there would be no significant civilian resistance. As Venezuela expert Javier Corrales has pointed out, multiple armed groups with distinct interests would defend the status quo no matter

what the cost, whether for ideological reasons or because their livelihood is linked to the Maduro government. In addition to high ranking military officers, the Special Action Forces (FAES) and the infamous pro-government *colectivos* would be poised to become what defense expert Adam Isacson has called a "chavista insurgency" in a post-intervention scenario. Even Colombian National Liberation Army (ELN) guerillas and dissident Revolutionary Armed Forces of Colombia (FARC) members would have incentives to take up arms in Venezuela, and the conflict would certainly spill into Colombia, adding to the challenges facing our close ally as it struggles to implement the 2016 peace accord and consolidate government control over previously ungoverned territory.

Loss of Partnership and Goodwill of Allies and Partners

A U.S. military intervention would shatter the hard-fought regional and international consensus that has marginalized the Maduro government. The United States is one of the 54 nations, including most Latin American and European countries, that have recognized Juan Guaidó as Venezuela's interim president. At the same time, the vast majority of our partners have publicly and unequivocally stated their opposition military intervention in Venezuela including Venezuela's closest neighbors: Colombia and Brazil. Eleven members of the Lima Group issued a joint statement last month: "[T]he transition to democracy must be conducted by the Venezuelans themselves peacefully and within the framework of the Constitution and international law, supported by political and diplomatic means, without the use of force."

It's not surprising that the countries of Latin America and the Caribbean would oppose U.S. military intervention given the history of the region. Recent saber-rattling along with references to the Monroe Doctrine have created concerns among Latin American governments that the United States may return to its Cold War posture. As members of this Committee know, past U.S. action and support for military coups in Latin America often led to deep-seated despair and resentment. During my tenure as DASD, I was frequently reminded of the history of U.S. intervention in countries from Chile to Guatemala to Mexico. Former U.S. Southern Command Commander James Stavridis captures this in his reference to the 2008 creation of the Fourth Fleet, which focuses on humanitarian assistance and disaster relief, medical diplomacy, and counter-narcotics. In an interview last month, he recalled that regional partners saw the Fourth Fleet as "a return to gunboat diplomacy. We had to work very hard to overcome that."

Indeed, the U.S. government has worked to overcome these perceptions and has created a significant amount of trust with our Latin American partners. A military intervention would set us back at a time when China and Russia are gaining influence in the region. It would also give Maduro an effective propaganda tool to use against the U.S. in the region and thus potentially strengthen his hand.

Military action in contravention of the stated policies of the Lima Group countries would stand to jeopardize the U.S. military's broader work in Latin America and the Caribbean. As Deputy Assistant Secretary of Defense, I became keenly aware of the importance of our partnerships to combat effectively transnational criminal organizations, respond to natural disasters, strengthen defense institutions, and develop military human rights programs. Military intervention would put at risk our important collaboration with the governments and armed forces of the hemisphere.

Recommendations for Moving Forward

There is a crisis in Venezuela, and there are potential non-combat roles for the U.S. armed forces, especially in the delivery of humanitarian assistance. Moreover, although the focus of today's hearing is on military action, we cannot lose sight of the non-military policy tools at our disposal to address the current challenges of the Maduro regime.

Non-Combat Role for the U.S. Military: Humanitarian Assistance. Although a unilateral intervention would be a mistake, the U.S. military should be ready to provide humanitarian assistance. When the time comes, the United States armed forces (always in support of civilian authorities) should be part of a broader coalition of countries that steps in to alleviate the suffering of the Venezuelan people. The militaries of regional partners such as Brazil, Chile, and Mexico have extensive experience and expertise in delivering aid under difficult circumstances. A humanitarian mission presents an opportunity to strengthen our military-to-military partnerships and broader defense relationships in the Western Hemisphere at a time when the U.S. government is working to minimize Chinese and Russian influence in the region. A long-time goal of U.S. Southern Command has been to promote the United States as a partner of choice. Recognizing our partners' capabilities would go a long way towards conveying the message of equal partnership and building trust, which — as noted above — is critical to our mission in the region.

Depoliticize the Delivery of Humanitarian Assistance. The provision of essential supplies to mitigate the dire humanitarian crisis must be the priority. We should continue to look for ways get aid into Venezuela. In order to do this effectively, donors must not politicize the delivery of assistance, which means distancing the provision of aid from political goals. Humanitarian aid is most effective when it adheres to the principles of neutrality, impartiality, and independence. As humanitarian response expert Jeremy Konyndyk explains, humanitarian action in contested environments will not reach those in need if it becomes entangled in the wider political power struggle. One of the challenges of the well-intentioned February 23 effort was the characterization of the aid as support for Guaidó, which helped Maduro portray the mission as an attempt to overthrow him. In the future, we can apply lessons learned by keeping a low profile and ceding leadership to a credible and neutral party such as the International Red Cross, the U.N. or local NGOs.

Support the 3.4 million Venezuelans Who Have Fled to Other Nations. Supporting Venezuelans abroad means designating Venezuelans for Temporary Protected Status and providing additional financial assistance to the countries that have welcomed Venezuelans. Currently, we are asking nations in the region to host Venezuelan refugees when we aren't doing so ourselves. Supporting the refugees also entails pledging additional assistance for the Venezuela regional response. As Cynthia Arnson pointed out in recent testimony, the U.S. government pledge of $152 million between fiscal years 2017-2019 is important but nowhere near the $738 million needed according the U.N. Regional Refugee and Migrant Response Plan.

Stand Behind the Lima Group. From the perspective of regional stability and institution-building, the Lima Group's unity and resolve to take a front seat in addressing the Venezuelan crisis is a welcome change from the hands-off approach of most Latin American nations until

2017. We should give the Lima Group the opportunity to continue to take a leadership position and find diplomatic solutions to the Venezuelan crisis.

Continue to Pursue Multilateral Diplomacy. The U.S. government should continue to be part of multilateral engagement. Our efforts to support a democratic transition will not be effective unless we work closely with our partners — especially those in the region, including Mexico. Though it will be difficult, the U.S. should also put Venezuela on the agenda during engagements with China, Cuba, and Russia –- countries that wield significant sway with Maduro.

Keep Our Eyes on Colombia. Colombia is often held up as a rare example of bipartisan foreign policy success. With the help of Plan Colombia, the country moved from the brink of state failure in 2000 to a liberal democracy with a strong market economy. The 2016 peace accords signaled that conflict with the FARC had finally drawn to a close after decades of civil war. Moreover, Colombia has the potential to increase its role as a security exporter, contributing to global stability. The crisis in Venezuela, however, has the potential to destabilize our closest ally in Latin America. Colombia has been the largest recipient of Venezuelan refugees, which has strained the country's economy, infrastructure, health system, and security. The government of President Iván Duque has the unenviable task of implementing the peace accords while dealing with the influx of 1.2 million Venezuelans, both of which require tremendous resources. The U.S. government should commit to supporting President Duque in this endeavor. The United States and the region have a lot riding on the consolidation of peace in Colombia.

Conclusion

Thank you again for shining a light on what is happening in Venezuela. I also want to thank the Committee for its attention to Latin America and the Caribbean more generally, a region that is too often an afterthought for policymakers. I would be happy to assist this Committee as it formulates its policy approaches to the Venezuelan challenge.

Chairman ENGEL. Thank you, Dr. Chavez.
Ms. Pearlstein.

STATEMENT OF DEBORAH PEARLSTEIN, PROFESSOR OF LAW AND CO-DIRECTOR, FLOERSHEIMER CENTER FOR CONSTITUTIONAL DEMOCRACY, BENJAMIN N. CARDOZO SCHOOL OF LAW, YESHIVA UNIVERSITY

Ms. PEARLSTEIN. Thank you very much.
Chairman ENGEL. If you can pull the mike a little closer. Is the button pushed?
Ms. PEARLSTEIN. Thank you. Is this better?
Chairman ENGEL. Yes.
Ms. PEARLSTEIN. Thank you very much, Chairman Engel and Ranking Member McCaul and the members of the committee. Thank you for giving me the opportunity to discuss legal issues surrounding H.R. 1004, a bill to restrict Federal funding for the introduction of U.S. troops into hostilities in Venezuela.

As I teach my first-year students in constitutional law, a few things were as clear in the documents designed, is the expectation that Congress would play a central role in our democracy and defining the purpose and regulating the use of U.S. military power, most importantly, when it comes to the introduction of U.S. Forces into hostilities. This allocation of responsibility was made evident throughout the Constitution's text and structure and was unmistakable in the Framers' intent. As James Madison put it, in no part of the Constitution is more wisdom to be found than in the claws which confides the question of war or peace to the legislature and not to the executive. The trust and the temptation, Madison said, would be too great for any one man.

While the past half century or so Presidential practices at times have obscured that design, it has not changed two key propositions of Constitutional law that I would like to highlight in these few minutes.

First, Congress enjoys exclusive power under the Constitution over the expenditure of Federal funds. Congress holds not only sweeping spending authority under Article I, Section 8, to provide for the common defense and general welfare of the United States, but also authority directed toward spending for the military, particularly, including the power to raise and support armies and provide and maintain a Navy, and of course, declare war.

Of equal significance is the parallel requirement in the Constitution in Article I, Section 9, providing that no money shall be drawn from the Treasury but in consequence of appropriations made by law. As reflected in these and other provisions, Congress' power in the purse is among our democracy's most fundamental checks on the exercise of executive power.

H.R. 1004 is an unremarkable exercise of Congress' power in this respect under Article I of the Constitution. The bill, as drafted, is consistent with many such appropriations restrictions Congress has enacted in the past, restricting the actions of Republican and Democratic Presidents alike, and is limited by its terms to preserve the United States' ability to respond in self-defense to armed attacks.

Second, while there has long been a debate among constitutional law scholars and others about the scope of the President's power under Article II of the Constitution, to use force in the absence of congressional authorization. There is far less debate on the effect on the President's power of an express congressional prohibition.

As has been clear since Justice Jackson set the framework for evaluating questions and executive power in the steel seizure case, a framework the court justices of both parties continue to embrace vigorously today, the scope of the President's power under Article II of the Constitution depends first and foremost on the position of Congress. When the President takes steps incompatible with the expressed or implied will of Congress, whatever independent constitutional power he possesses, is at its lowest ebb.

At this lowest ebb, the President's claim to any power to act in the face of a congressional prohibition must be scrutinized with caution, the court wrote, for what is at stake is the equilibrium established by our constitutional system. This is an equilibrium, in my view, that ensures the President is bound by the duly enacted laws of the United States.

This equilibrium is far from altered in the realm of foreign affairs. On the contrary, Congress' full engagement is critical in ensuring that the activities of America's military enjoy the full support of America's people. As the Supreme Court emphasized only recently, the executive is not free from the ordinary controls and checks of Congress merely because foreign affairs are at issue. It is not for the President alone to determine the whole content of the Nation's foreign policy.

While the President can rightly argue that he has the independent constitutional duty to repel sudden attacks against the United States, I do not think 1004 can be read to infringe on the President's power in this respect. The bill exempts from its coverage circumstances in which it may be necessary for the armed forces to respond to attacks on U.S. Forces or on the United States. And were there any doubt in this regard, longstanding principles of statutory construction require that a court facing a statute of ambiguous meaning prefer a reading of this statute that avoids any constitutional question.

The Framers knew acutely, personally, what war could cost republics, so they built in a series of hurdles. The Constitution would require Congress to publicly authorize military expenditures in the face of their constituents every 2 years. The Armed Forces would be manned, the idea was, by the citizen soldier, one incapable of acting inconsistent with the will of the people of which he and she were part. And a majority of the country's elected representatives would be required to approve any decision to commit the country to war.

Fast forward two centuries, and all of those checks have been disabled. What we spend on military action is at times obscure to the public by vast sums spent on private contractors. Just half of 1 percent of Americans serve in the military. We are a Nation, according to poll results, in which 80 percent of Americas support the troops. But during the height of the war in Afghanistan, 90 percent of Americans were unable to locate Afghanistan on a map.

Today, Congress is one of the last nominally operating checks on the President's power in this regard. I am enormously grateful for this committee's decision to engage it. Thank you.

[The statement of Ms. Pearlstein follows:]

Statement of
Deborah N. Pearlstein

Prepared Testimony to the
Committee on Foreign Affairs
United States House of Representatives
March 13, 2019

Hearing on H.R. 1004
Prohibiting Unauthorized Military Action in Venezuela Act

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Introduction

Chairman Engel, Ranking Member McCaul, members of the Committee, thank you for giving me the opportunity to discuss legal issues surrounding the Committee's consideration of H.R. 1004, a bill to prohibit the introduction of U.S. Armed Forces into hostilities in Venezuela. Congress plays an indisputably central role in our constitutional democracy in defining the purpose and regulating the use of U.S. military power overseas, most importantly when it comes to the introduction of U.S. forces into hostilities. This responsibility is evident in the Constitution's text and history, and in Congress' engagement throughout the nation's history both in authorizing the use of force, and in placing a wide range of restrictions on its use. While I take no position on whether it is wise policy to engage the U.S. Armed Forces in addressing the crisis in Venezuela today, I have no doubt that H.R. 1004 is an unremarkable – and constitutional – assertion of congressional power to restrict the introduction of U.S. Armed Forces into hostilities there.

This testimony presents two primary arguments. First, H.R. 1004 is a lawful exercise of Congress' Appropriations Power under Article I of the Constitution to restrict federal expenditures. The bill as drafted is consistent with many such appropriations restrictions Congress has enacted in the past, and it is carefully limited by its terms to

preserve the United States' ability to respond in self-defense to armed attacks. Second, while the President possesses some independent power to use force absent congressional *authorization* under Article II of the Constitution (notably, the power to repel attacks against the United States and its embassies), any residual presidential power to use force in the face of an express congressional *prohibition* against the use of funds for such a purpose is narrow indeed. In all events, H.R. 1004 cannot properly be construed to infringe upon that power here.

H.R. 1004 Is a Constitutional Exercise of Congress' Appropriations Power

It is among the least controversial propositions in constitutional law that Congress enjoys exclusive power over the expenditure of federal funds. Congress holds not only sweeping spending authority under Article I, Section 8 "to provide for the common Defense and general Welfare of the United States," but also authority directed toward spending for the military particularly, including the power to "raise and support Armies," to "provide and maintain a Navy," and indeed "To declare War." Of equal significance is the Constitution's parallel requirement in the Article I, Section 9 Appropriations Clause, providing: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." As reflected in these and other express provisions of the Constitution, Congress' "power of the purse" is among our democracy's most fundamental checks on the exercise of Executive power.[1]

[1] *See, e.g.*, THE FEDERALIST NO. 58, at 297-98 (James Madison) (Ian Shapiro ed., 2009). (describing Congress' power of the purse "the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure").

Far from understanding these powers to be more constrained in the realm of foreign affairs or national security, the Constitution's Framers recognized the appropriations power as an especially important check on the Executive's ability to deploy the military.[2] Determined to learn the negative example of the British military they had foremost in mind, the Framers thought it essential that control over the military not be vested in an Executive alone. Indeed, to ensure that the President and the military remained politically accountable to the public, the Constitution expressly requires Congress to authorize military expenditures "in the face of their constituents" every two years,[3] ensuring that the government's most profound power remained squarely in the hands of "the representatives of the people."[4] Preserving accountability in this sense was equally favored by the military itself, which feared being made the political scapegoat of civilian policy decisions.[5]

Given this history, it should be unsurprising that Congress has repeatedly enacted legislation in the modern era prohibiting the use of appropriated funds to support various U.S. military activities abroad – and Presidents have repeatedly complied. Congressional appropriations restrictions were ultimately pivotal in curtailing U.S. participation in

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[2] *See, e.g.*, Letter from Thomas Jefferson to James Madison (Sept. 6, 1789), *in* 15 THE PAPERS OF THOMAS JEFFERSON, 392, 397 (Julian P. Boyd ed., 1958) ("We have already given ... one effectual check to the Dog of war by transferring the power of letting him loose from the Executive to the Legislative body, from those who are to spend to those who are to pay.").

[3] U.S. CONST., art. I, § 8, cl. 12; *see also* THE FEDERALIST NO. 26, at 170 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

[4] THE FEDERALIST NO. 28 (Alexander Hamilton), *supra* note 3, at 179-80 ("Independent of all other reasonings upon the subject, it is a full answer to those who require a more peremptory provision against military establishments in time of peace to say that the whole power of the proposed government is to be in the hands of the representatives of the people."); *see also* THE FEDERALIST NO. 41 (James Madison), *supra* note 3, at 259 (arguing that giving control over military appropriations to representatives facing elections every two years provides a check on the dangers of a powerful military).

[5] CHARLES ROYSTER, A REVOLUTIONARY PEOPLE AT WAR: THE CONTINENTAL ARMY AND AMERICAN CHARACTER, 1775-1783, at 312 (1979).

combat operations in Indochina in the 1970s;[6] appropriations restrictions likewise operated to prohibit the use of funds for various military activities in Nicaragua in the 1980s;[7] and analogous provisions were again enacted to limit the role of U.S. military forces in Somalia and Rwanda in the 1990s.[8] While it is true that a few Presidents have occasionally voiced objections to such congressional constraints on policy grounds,[9] the most comprehensive historical survey of which I am aware examining presidential responses to legislative restrictions on military force (from the founding era through 2008) was able to identify only a single instance in which a President could be said to have actually violated a specific appropriations restriction.[10] As to that incident, involving President Ford's 1975 decision to engage the military in evacuating a group of U.S. and foreign nationals from Vietnam, it remains entirely unclear whether Congress would have in fact objected to the particular operation under the circumstances.[11]

The measure currently under consideration by this Committee, H.R. 1004, is fully consistent with Congress' historic exercise of its appropriations power in this realm.

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[6] *See, e.g.*, P.L. 91-652, §7(a) (1971) (prohibiting funds appropriated from being used to introduce U.S. ground troops into Cambodia); P.L. 93-50, §307 (1973) (prohibiting appropriated funds from being used in U.S. combat activities in Indochina after August 15, 1973).

[7] *See, e.g.*, P.L. 98-473, §8066 (1984) (providing that "no funds available" to the Defense Department or any other agency "may be obligated or expended for the purpose … of supporting … military or paramilitary operation in Nicaragua by any nation, group, organization, movement, or individual").

[8] *See* P.L. 103-139, §8135 (1993) (barring appropriations from being used for combat forces in Somalia after March 31, 1994). For additional examples, see CRS Report RS20775, Congressional Use of Funding Cutoffs Since 1970 Involving U.S. Military Forces and Overseas Deployments, and CRS Report RL33803, Congressional Restrictions on U.S. Military Operations in Vietnam, Cambodia, Laos, Somalia, and Kosovo: Funding and Non-Funding Approaches, by Amy Belasco et al.

[9] *See* David J. Barron & Martin S. Lederman, *The Commander in Chief at the Lowest Ebb--A Constitutional History*, 121 HARV. L. REV. 941, 1067 (2008) (recounting President Nixon's veto of early congressional efforts to restrict funding for operations in Cambodia).

[10] *See id.*, at 1072-73 (describing President Ford's decision to authorize U.S. forces to aid in rescuing U.S. and foreign nationals in Vietnam, notwithstanding the statutory prohibition on the use of appropriated funds to involve U.S. forces in "hostilities").

[11] *See* Zachary S. Price, *Funding Restrictions and the Separation of Powers*, 71 VAND. L. REV. 357, 432 (2018) (noting that the President had convened a special session of Congress to amend the operative restriction, and that "while Congress was still searching for precise language when he acted unilaterally, it appeared receptive to his general objectives").

Tracking the 1973 War Powers Resolution (WPR) framework,[12] H.R. 1004 provides that "[n]one of the funds authorized to be appropriated or otherwise made available" to any Federal agency "may be used to introduce the Armed Forces of the United States into hostilities with respect to Venezuela" absent a declaration of war, specific statutory authorization, or an attack "upon the United States, its territories or possessions, or the Armed Forces."

While H.R. 1004 thus contains clear prohibitory language against the expenditure of funds, it is carefully limited in two significant ways. First, H.R. 1004 mirrors the WPR in applying only to the introduction of forces into "hostilities"; the use of U.S. forces in circumstances not rising to the level of "hostilities" (including, for example, the ongoing mission of U.S. Marine guards at the U.S. Embassy in Caracas) are thus excluded from the bill's coverage.[13] Second, H.R. 1004 likewise exempts from its coverage circumstances in which it may be necessary for the U.S. Armed Forces to respond in exigent circumstances to an "attack upon the United States," or against our Armed Forces otherwise lawfully present. The bill thus does nothing to undermine the long settled recognition, under U.S. and international law, of a nation's right to respond to armed attacks in self-defense.[14]

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[12] P.L. 93-148 (1973).
[13] *See, e.g.*, 10 U.S.C. § 8183.
[14] *See, e.g.*, LOUIS FISHER, PRESIDENTIAL WAR POWER 6-8 (1995) (describing debates of Constitutional Convention); THOMAS M. FRANCK, RECOURSE TO FORCE: STATE ACTION AGAINST THREATS AND ARMED ATTACKS 76-96 (2002) (recognizing as legitimate self-defense within the meaning of Article 51 of the UN Charter state efforts to protect nationals abroad where threat is "demonstrably real and grave" and intervention is proportionate).

The President's Article II Power to Repel Sudden Attacks

Given the scope of congressional power to set the terms of federal appropriations, the sole constitutional objection that might be raised to H.R. 1004 is the prospect that the restriction somehow infringes upon the exercise of a power that the Constitution grants *exclusively* to the President under Article II. Such a power is not lightly to be assumed. As the Supreme Court has long recognized: "Presidential powers are not fixed but fluctuate depending upon their disjunction or conjunction with those of Congress."[15] While the President's power is accordingly at its constitutional maximum when he acts pursuant to express congressional authorization, his power is likewise "at its lowest ebb" when he takes steps "incompatible with the expressed or implied will of Congress."[16] At this lowest ebb, the President's claim to any such "preclusive" power "must be scrutinized with caution, for what is at stake is the equilibrium established by our constitutional system."[17] An equilibrium that ensures the President is bound by the duly enacted laws of the United States.

Whatever initiative the President may enjoy to commit U.S. forces to hostilities in the absence of congressional *authorization*, it is an entirely different matter to suggest he retains any such power in the face of a congressional *prohibition* like the one contemplated in H.R. 1004. Indeed, the single occasion in U.S. history in which the Supreme Court has recognized the existence of such a preclusive Executive power (respecting the issuance of passports), it did so only while making clear at the same time that it was identifying an extraordinary exception to the application of legislative restrictions, not the rule. As the Court put it then: "The Executive is not free from the

[15] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 635 (1952) (Jackson, J., concurring).
[16] *Id.*, at 637-638.
[17] *Id.*, at 638.

ordinary controls and checks of Congress merely because foreign affairs are at issue. It is not for the President alone to determine the whole content of the Nation's foreign policy."[18]

Here, to the extent the President retains any residual authority to exercise an Article II power as Commander in Chief in contravention of congressional funding limits, it could only be, as the WPR itself implies, "in a moment of genuine emergency, when the Government must act with no time for deliberation,...[and when there is] an imminent threat to the safety of the Nation and its people."[19] Indeed, among the lessons one can glean from the debates at the Constitutional Convention is that the Framers' decision to change the text of Article I – from an earlier version giving Congress the power to "make war" to the version adopted, giving Congress the power to "declare war" – was in order to ensure the President would retain "the power to repel sudden attacks."[20]

Yet for reasons noted above, I do not think H.R. 1004 can fairly be read to curtail the President's power in this respect. The bill expressly exempts from its coverage circumstances in which it may be necessary for the U.S. Armed Forces to respond to attacks on U.S. forces or on the United States. Were there any doubt in this regard – H.R. 1004 does not, for example, define what might constitute "a national emergency created by an attack on the United States" – longstanding principles of statutory construction require that a court facing a statute of ambiguous meaning prefer a reading of the statute that avoids any constitutional question.[21] This 'canon of constitutional avoidance'

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[18] Zivotofsky v. Kerry, 576 U.S. 1059 (2015) (holding that "Congress cannot command the President to contradict an earlier recognition determination in the issuance of passports").
[19] Hamdi v. Rumsfeld, 542 U.S. 507, 552 (2004) (Souter, J., concurring in part, dissenting in part, and concurring in the judgment).
[20] FISHER, supra *note* __, at 6-7 (describing the framers' desire to recognize the President's duty to take actions necessary to resist sudden attacks).
[21] *See, e.g.*, Ashwander v. Tennessee Valley Authority, 297 U.S. 288, 348 (1935).

without question includes avoiding any interpretation of a statute that might trench on any presidential power that remains available "at its lowest ebb."

Conclusion

For the foregoing reasons, I have no doubt that it is well within Congress' constitutional power to enact the appropriations restriction contained in H.R. 1004. The greater challenge, of course, is to see it done. Justice Jackson's often-quoted opinion in the *Steel Seizure Case* is in this respect especially prophetic: "I have no illusion that any decision by this Court can keep power in the hands of Congress if it is not wise and timely in meeting its problems.... We may say that power to legislate for emergencies belongs in the hands of Congress, but only Congress itself can prevent power from slipping through its fingers."[22] This Committee's work to bring attention to these critical questions of military force is essential to preserving Congress' constitutional role as a co-equal branch of U.S. Government responsible for the weighty decision to put U.S. troops in harm's way. I am grateful for the Committee's efforts, and for the opportunity to share my views on these issues of such vital national importance.

[22] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 654 (1952) (Jackson, J., concurring).

Chairman ENGEL. Thank you.
Dr. Neumann.

STATEMENT OF VANESSA NEUMANN, PH.D., PRESIDENT, ASYMMETRICA

Ms. NEUMANN. Thank you. Thank you very much. We had—there are some visuals, I do not know what the protocol is, they have been entered as the exhibits.

To my credentials already presented—and it is Dr. Neumann, by the way. Thank you for having me very much, members of the committee, for inviting me to testify here today, but more broadly, for your concern for my beloved Venezuela.

As you know, I am an Venezuelan American. I hold both passports. And I am a long-time vociferous advocate for Venezuela's return to democracy. To my credentials already presented, I would only add, I am also a fellow at Yale University's Global Justice Program. My company, Asymmetrica, is part of the research network for the U.N. Security Council's Counterterrorism Executive Directorate, CTED. I worked reintegration of paramilitaries in Colombia, which is why I am also the academic reviewer for U.S. Special Operation Command's teaching manual on counterinsurgency in Colombia.

My doctoral dissertation in 2004 from Colombia University was specifically about—it is entitled, The Autonomy and Legitimacy of States: A Critical Approach to Foreign Intervention. And it is ironic to me that it is now directly on point to my home country 15 years after its publication.

In many ways, Venezuela is already suffering from war. The functions of State have been captured by a serious transnational criminal organization that provides safe haven and financing for terrorists, actively bombing their neighbors, as the ELN did a month ago to the Colombian police academy. It is the main transit point for cocaine into the rest of the world, destabilizing Central America, and therefore our southern border, all while wresting territorial control from a legitimate government, and intentionally murdering Venezuelan citizens.

On February 23, Maduro used armed gangs to blockade the entry of humanitarian aid and shoot to kill unarmed civilians carrying food to their starving relatives. On the border with Brazil they massacred the Pemon tribe. On March 11, the dictator Maduro went on national television ordering armed gangs to slaughter the people. This is what Third Sergeant Miguel Torrosa warned us of when he crossed a bridge into Colombia on February 22. "Maduro wants to slaughter the people," he shouted. The dictatorship certainly seemed happy to let us starve and die of treatable disease.

For me, the paradigmatic case is of the woman who took her 19-year-old daughter who was dying of starvation to a hospital that was closed because of the first night of blackouts. The child died, and she roamed the streets carrying her 19-year-old child's body that weighed 10 kilos, that is 22 pounds. It is the perfect storm of nightmares.

It has worst inflation than any war zone, about to hit 10 million percent in 2019; a higher infant mortality rate than Syria. More than 330,000 people have been killed by violence under the

Bolivarian Revolution. 18.7 million Venezuelans are losing weight rapidly, 25 pounds in the past year. That means we are facing a massive starvation that rivals that of Ethiopia, Somalia, and Darfur, but in our hemisphere. And according to Gallup 2018 Global Law and Order, Venezuela is the least safe country in which to live. It is no wonder that Venezuelans are leaving in droves.

At 3.4 million, Venezuela is the second largest refugee population in the world, second only to Syria. There are more Venezuelan refugees than South Sudanese, Somalis, or Afghans.

Before the pervasive blackouts caused by the greatest kleptocracy the world has ever seen, the U.N. And the OAS estimated that 2 million more Venezuelans would flee this year alone, making the total refugee to 5.4 million. And Brookings and the OAS estimate that that would be 7.2 million refugees by the end of 2020. That would absolutely destabilize the entire hemisphere. Now, that was before the lights went out and before we ran out of gasoline, which is happening now. We can easily anticipate that we will skyrocket past those horrific projections.

Such a massive and rapid exodus will also mean that they would destabilize the hemisphere. People will look for employment that could well be provided by the ELN, FARC, or even ISIS in Trinidad and Tobago, which has alarming rates of recruitment. And there recruitment patterns are very different from what we have seen in Europe and North Africa. They are better suited to the profiles of Venezuelan refugees.

If we have learned something from our past experience with ISIS, is that when gasoline is a rare and precious commodity, as it is now becoming in Venezuelan, armed groups make those forward operating bases. Venezuela has 960 political prisoners. The catastrophic state of repression and chaos is entirely predictable and part of regime policy.

In the 19th century, Immanuel Kant in his Metaphysical Elements of Justice argued that one of the results of globalization is not just of money and information, but also of responsibility. Let us meet that responsibility. Rid our region of our greatest threat, restore the dignity and freedom of millions of Venezuelans who were once our close friends. Let us find a path back to democracy and friendship and cooperation and not hand a dictator a carte blanche for further slaughter of our only democratic forces and your friends with a legislation that is unnecessary and serves only to plunge my people's misery in DC partisan politics. The Venezuelan crisis has been a source of bipartisan cooperation. Thirty-two million of us need you to keep it that way.

I thank the committee for its time in letting me speak here today and for its concern for Venezuela. I remain at your service as you develop policies that will be productive for both my countries. Thank you.

[The statement of Ms. Neumann follows:]

Testimony by Dr. Vanessa Neumann, president of Asymmetrica

to the House Foreign Affairs Committee of the United States Congress

Hearing on H.R. 1004: Prohibiting Unauthorized Military Action in Venezuela Act

13 March 2019

Thank you, ladies and gentlemen of the committee, for inviting me to testify here today, but more broadly, for your concern for my beloved Venezuela.

As you know, I am a Venezuelan-American, born in Caracas, and a long-time vociferous advocate for Venezuela's return to democracy.

I am the author of *Blood Profits*, about my decade of work mapping out transnational criminal networks, corruption, and their connections with terrorism, mostly in the Western Hemisphere, but also in the Levant, Middle East and Horn of Africa. I am also the president of Asymmetrica, a political risk and anti-corruption consultancy specializing in Latin America. Asymmetrica is a member of the Global Counter-Terrorism Research Network (GCTRN) for the United Nations Security Council's Counter-Terrorism Committee Executive Directorate (CTED). I worked DDR of Colombian paramilitaries, which is why I was also the academic reviewer for USSOCOM's ARIS Series reference text on counterinsurgency (COIN) in Colombia. I served four years on the OECD's Task Force on Countering Illicit Trade (since its inception) and on their Advisory Group. I also co-authored *The Many Criminal Heads of the Golden Hydra* (for the Counter-Extremism Project, May 2018), an extensive analysis of illicit trade and corruption in the Tri-Border Area. I got my Ph.D. in moral political philosophy in 2004 from Columbia University for my dissertation *The Autonomy and Legitimacy of States: A Critical Approach to Foreign Intervention*. It is ironic that 15 years later, it is directly on point for Venezuela.

In it, I foresaw that political changes were laying the ground for tyranny. I also foresaw a situation where a country could collapse into chaos and become unable to deliver basic goods in an orderly manner to its citizens. I also foresaw a situation where the rulers would lose legitimacy through two mechanisms: questionable elections or acting counter to what the citizens would want, including widespread human rights violations. What I did not foresee was the combination of all these scenarios or the depth of human suffering that would befall my country.

In many ways, Venezuela is already suffering from a war.

A Country Already in a State of War

The functions of state have been captured by a serious transnational criminal organization that provides safe haven and financing for terrorists (actively bombing their neighbors, as the ELN did a month ago to the Colombian police academy), is the main transit point for cocaine into the rest of the world (destabilizing Central America and therefore our Southern

border), all while wresting territorial control from a legitimate government and intentionally murdering Venezuelan citizens. On February 23rd, Maduro used armed gangs to blockade the entry of humanitarian aid and shoot to kill unarmed civilians carrying food to their starving relatives. On the border with Brazil, they massacred the Pemón tribe. On March 11th, the dictator Maduro went on national television ordering armed gangs to slaughter the people. This is what Third Sergeant Miguel Torrosa warned us of when he crossed a bridge into Colombia on February 22nd: "Maduro wants to slaughter the people!" he shouted. The dictatorship certainly seems content to let them starve and die of treatable disease.

Violence and Starvation

For me, the paradigmatic case was the woman who took her 19 year old daughter to the hospital because she was dying of starvation. It was the first night of the blackouts and the local hospital was shut. She later walked the streets carrying the body of her 19 year old daughter, who weighed only 10 kgs -- 22 lbs.

Venezuela suffers as a country at war:

- It has worse inflation than any war zone -- set to hit 10,000,000% in 2019.
- It has a higher infant mortality than Syria.
- More than 333,000 have been killed by violence under the Bolivarian Revolution.
- 18.7 million Venezuelans are losing weight rapidly (25 pounds in the past year).

That means we are facing a massive starvation -- that rivals that of Ethiopia, Somalia, and Darfur -- but in our hemisphere. And according to the Gallup *2018 Global Law and Order,* Venezuela is the least safe country in which to live. It is no wonder then that Venezuelans are fleeing in droves.

Refugee Crisis

At 3.4 million, Venezuela is the second largest refugee population in the world. It is second only to Syria. There are more Venezuelan refugees than South Sudanese, Somalis, or Afghans.

Before the pervasive blackouts (caused by the greatest kleptocracy the world has ever seen), the UN and the OAS estimated two million more Venezuelans would flee in 2019, bringing the total refugees from the dictatorship to 5.4 million by the end of this year. The Brookings Institute and the OAS Working Group to Address the Venezuelan Migrant and Refugee Crisis in the Region estimated that more than 7.2 million Venezuelans will have fled by the end of 2020. Now that there is almost no electricity or gasoline (in addition to no food, medicine, or money), those numbers should skyrocket well past those projections.

Such a massive and rapid exodus, will absolutely destabilise the entire hemisphere, as people will look for employment that could well be provided by armed groups like the ELN and FARC and even ISIS, in Trinidad and Tobago, where it has an alarming rate of recruitment, and those recruitment patterns are very different from what we have seen in Europe or North Africa; they are better suited to the profiles of Venezuelan refugees.

Lessons from ISIS

We have learned something else from our past experience with ISIS: when gasoline is a rare and precious commodity, as it is now becoming in Venezuela, armed groups make what small distribution points they can find or gasoline refineries they can cobble together from makeshift parts and convert them into operational bases. ISIS did this and sold the oil and gasoline to whoever paid the highest price, even their enemies on the battlefield. There is no reason to think that this will not happen in Venezuela, further fracturing into warlord fiefdoms.

Human Rights Abuses

According to Venezuelan NGO Foro Penal, there are more than 960 political prisoners. The last case happened within the last 48 hours. Well-respected journalist Luis Carlos Díaz was illegally detained by the dictatorship when he was heading home. His whereabouts were unknown for several hours until the security forces ransacked his home and robbed his bedridden cancer-stricken wife. The journalist was ludicrously accused of being responsible for the five-day national blackout. This is just but one example of the escalation in the dictatorship's war on freedom of speech and information, which are the lifeblood of any democracy.

A Dictatorship's Policy

This catastrophic state of repression and chaos was entirely predictable, as it is the result of regime policy. It will not allow humanitarian aid to save the 18.7 million starving Venezuelans, because it would rather keep the political control starvation affords it. Venezuela's war-like conditions are due solely to the intransigence of Maduro who does not care about the human cost of his clinging to power.

Venezuela needs international humanitarian aid to enter its borders as soon as possible to prevent the horrors that will predictably ensue if it doesn't.

A Request for Assistance

What is unique about Venezuela is it has a legitimate interim government that is loved by the people and broadly recognized by the world's democracies; it can request international assistance in the provision of aid and restoring territorial control away from NSAGs (non-state armed groups), such as the FARC, the ELN, the colectivos, the illegal miners, or even Hezbollah. After all, we have already been invaded: our slaughter is at the behest of nefarious foreign powers, such as Cuba, which insists on its oil shipments, even through the blood of my people.

I am not here today to discuss whether military intervention is justified now or not. I am here to say that there are numerous scenarios where some form of international assistance is foreseeable, and this proposed legislation is not only redundant, repeating what is already well-established in the US Constitution, but it sets the conditions for the further endangerment of my people. We are ruled by thugs, who understand only force. If they think that our assistance in a crisis of a breakdown of civil order or a mass starvation will be entangled in the partisan wranglings of US domestic politics, we could well be doomed.

International law recognizes an exceptional right to take action in a case of overwhelming humanitarian necessity. For this there are three criteria:

1. convincing evidence of large scale humanitarian distress requiring immediate relief
2. no practical alternative to save lives
3. the use of force is:
    a. necessary,
    b. proportionate to the crisis, and
    c. limited in time and (geographical) scope

We are not framing this as a war, intervention, or invasion. The correct framework is a military cooperation which, by the way, should be multilateral. According to the Venezuelan Constitution, Article 187.11, the National Assembly could request a foreign mission to Venezuela. In such a case, it would be a legally-sanctioned act by the only legitimate and democratic institution in Venezuela. Let's hope that won't be necessary, but many fear it might.

It is widely accepted that the 'responsibility to protect' is owed in the first instance by all sovereign states to their own citizens, over whom it exercises authority in a contractual relationship of rights and obligations, but must be picked up by the international community if that first-tier responsibility is abdicated, or if it cannot be exercised, as a logical consequence of taking seriously the concepts of equality and dignity of all people. This view was first espoused in the 18th century by Immanuel Kant in his *Metaphysical Elements of Justice*: one of the results of globalization is a globalization not just of money and information, but also of responsibility. Let us meet that responsibility, rid our region of its greatest threat, restore the dignity and freedom of millions of Venezuelans who were once our close friends. Let us find a path back to democracy in friendship and cooperation, and not hand a dictator a *carte blanche* for further slaughter (of our only democratic forces and your friends) with a legislation that is unnecessary and serves only to plunge my people's misery in DC partisan politics. The Venezuelan crisis has been a source of bipartisan cooperation; 32 million of us need you to keep it that way.

I thank the committee for the time it has afforded me here today, and for its concern for Venezuela. I remain at your service as you develop policies that will be productive for both my countries.

Chairman ENGEL. I thank you, Dr. Neumann.

Let me ask Dr. Chavez a question. Let me ask you about the position of the Colombian Government on military intervention in Venezuela. Former Colombian President Alvaro Uribe, a friend with whom I worked closely when he was head of State and I was chair of the Western Hemisphere Subcommittee between 2006 and 2010—President Uribe is certainly no dove, yet he was crystal clear last month that military intervention in Venezuela must not be an option. And the current President of Colombia, Ivan Duque, signed his government on to the February 25 declaration of the Lima Group, which also included major countries in the Americas like Argentina, Brazil, and Canada, stating that a transition to democracy, and I quote, "must be conducted by Venezuelans themselves peacefully and within the framework of the constitution and international law supported by political and diplomatic means without the use of force", unquote.

My feeling is that Colombia has more at stake in the Venezuela crisis than any other country. And the Colombian people have opened up their hearts and homes to over 1 million Venezuelan migrants and refugees.

So let me ask you, Dr. Chavez, why do you think President Duque and former President Uribe have been so adamant in rejecting any type of military intervention in Venezuela? What is at stake for Colombia?

Ms. CHAVEZ. Thank you for the question. I think it is really important to note, as you did, that Colombia is the country—arguably the country that is most impacted by the refugee crisis in the region. I think the current number, it is at 1.2 million Venezuelan refugees and migrants are in Colombia.

And as you said, President Ivan Duque, as well as former President Uribe, have unequivocally stated their opposition to military intervention. This is because military intervention in Venezuela would destabilize Colombia when it is already—it is a very precarious moment for Colombia.

The low-intensity conflict that I described in my remarks and in my written statement would certainly spill over into Colombia, undermining the 2016 Peace Accord and the delicate PDR process. And it would make consolidation of control over the Colombian territory even more difficult.

Dissident FARC members as well as ELN guerillas, and then there are the BACRIMs, the armed criminal bands in Colombia, would likely join the struggle. I think their numbers are currently—there is 1,500 to 2,000 FARC members that have refused to disarm; they would definitely be part this of. And we have to remember that the border between the two countries, that is 1,400 miles long and it is very porous, so spillover is inevitable.

Chairman ENGEL. Professor Pearlstein, in your testimony, you explained why enacting H.R. 1004 would be a constitutional assertion of congressional war power. In my view, Congress' role as a check on the President's use of military force, has been diminished over the years, and we are no longer really fulfilling the role the Framers of the Constitution intended.

Do you have any recommendations for steps Congress could take to reassert its constitutional role in decisions over America's use of military force, not just in Venezuela, but in other contexts as well?

Ms. PEARLSTEIN. Certainly. And thank you for the question. To be clear, I think 1004 is supported by multiple facets of congressional power under Article I, Section 8, not just the declare war power. But in terms of additional steps that Congress could take in this context and beyond this context to reassert its role as a co-equal branch, I think there are several.

One, and this is an initiative that I know Senator Kaine has worked on and others on the Senate side, there are what he would call zombie authorizations for the use of military force, not just the 2001 authorization for the use of military force that authorized the invasion of Afghanistan. The 2002 authorization for the use of military force that authorized the initial invasion of Iraq, and there are actually a number of others on the books. Authorizations that have long outlived their purpose, but are nonetheless still sitting on the books that any President might at any time invoke as a source of statutory authority for the use of force. Repealing the zombie AUMFs would be an important first step.

A second step that comes to mind, just this week, the President made a decision to rescind an Obama-era order that had required the reporting of civilian casualties in areas outside of active hostilities, not only casualties that are as a result of military activities, but CIA activities as well. Congress could easily restore those reporting requirements. Congress can frequently, and I think more frequently than it does, use the power of the purse that it is trying to do here to restrict and guide the President's exercise of authority where it does believe that the use of force is possible.

And then, of course, there is the 2001 authorization for the use of military force, the statute that has now been on the books for nearly 18 years that has justified or been used to justify now by three different Presidents, use of military force in well over a half dozen different countries all over the world. It is possible, and there are variety of ways to do this, to clarify, limit sunset, and in other ways constrain the exercise of the President's authority over this way outdated authorization for the use of military force that it is, in my view, past time for Congress to revisit.

Chairman ENGEL. Thank you.

Mr. McCaul.

Mr. MCCAUL. Thank you, Mr. Chairman.

Let me just first say at the outset that I think you and I, and I think I speak for pretty much every member of this committee, clearly believe that Article I of the Constitution gives Congress the authority to declare war. And the Founding Fathers thought that constitutional democracies would never go to war with each other, which why they gave Congress that authority, I believe.

If the President were to commit troops in Venezuela, I would be the first member to call upon you, Mr. Chairman, to hold a hearing for unauthorized use of military force, but that is not where we are today. This is a premature—premature bill that takes all options off the table.

Anybody that has ever negotiated in the State Department knows that you need all options on the table to achieve results so

the diplomats can do their job. That is what the diplomats have asked of me, not only of the U.S. Government, but the legitimate President Guaido's administration.

So, Dr. Neumann, let me first say that I believe you speak for those millions of Venezuelans who are oppressed and starving and dying. I want to thank you for your courage to come forward before the Congress. President Guaido has clearly stated his support for the use of—or the threat of the use of military force against Maduro. I believe it is the one thing keeping him alive today.

In your opinion, what impact does this debate and this legislation have on the life and safety of President Guaido and others who are risking their lives on the ground as we speak?

Ms. NEUMANN. Thank you so much for having me again, and thank you for your kind words. I can only hope or be honored enough to represent my fellow compatriots, many of whom have—some people who are here in the audience today have been tortured by the Maduro regime. I am not—it is not for me to identify them, those are private matters, but there are several. And I have had my own address posted online by Chavez', claiming I was out to have him assassinated. That was back in late 2011. Fortunately, he got my address wrong. After I accused him of being—funding—being in cahoots with money laundering for Hezbollah, and it turned out I was right, because I then went to Lebanon to go see for myself.

So the impact that it would have is terrible because it gives Maduro something to hold up to say that even—even the gringos, you know, do not agree with this, that there is division. That even within the Empire, which is—these are the words he likes to use—have people who side with him and see the beauty of the Bolivarian Revolution. And we will see—and for us he will take it that they would understand, "you would be entangled in domestic wranglings. These people are thugs. All they understand is force."

If they think that there is no force coming or no force possible, I firmly believe that he will view it as carte blanche to continue to slaughter us and possibly take Guaido and other people who support him and work with him, and that would be the utter devastation of the last vestige of democracy in my country. These are also some of my friends, so it is a deeply felt matter as well as a moral duty.

Thank you.

Mr. MCCAUL. Dr. Neumann, let me ask you one more question. Fifty-four countries have now recognized the interim President Guaido as the legitimate President of Venezuela today. How important is it, in your opinion, that the U.S. Congress also make that same recognition?

Ms. NEUMANN. It is hugely important. I actually cannot think of a way to overstate its importance, because we need the United States to stand behind us. We understand that the United States is part of a broader coalition. We want a broader coalition. It is very important. But the moral standing of the United States, it is well-known that the United States has a complicated relationship with Latin America. The best book on the subject was actually written by a Venezuelan, called The Latin Americans: Their Love-Hate Relationship with the United States." However, it has always

been a beacon of some north, and we have already been intervened and invaded. We continue to send oil to Cuba, literally over the bodies of my compatriots.

So the importance of consistency and coherence and leadership by the United States, which is our north, in this issue of human rights and democracy, we welcome the opportunity for the United States to take up that role and that mantle again.

My own family were refugees from the Nazis and then the Soviets and into Venezuela. And now, of course, we have the Maduro regime. We have always looked to the United States for support and guidance on these moral issues.

Thank you.

Mr. MCCAUL. Thank you, Dr. Neumann, for your powerful testimony.

Chairman ENGEL. Thank you.

Mr. Sires.

Mr. SIRES. Thank you very much, Mr. Chairman. And thank you to our speakers today.

You know, today, the Venezuelan people are suffering under a crisis caused by authoritarian leader, Nicolas Maduro. Since Maduro came to power in 2013, he has consistently repressed human rights and caused an economic collapse that has left 90 percent of Venezuela in poverty and forced over 3 million Venezuelans to leave the country.

A week ago, I chaired a hearing in the Subcommittee on Western Hemisphere, Civilian Security, and Trade, examining the humanitarian crisis in Venezuela. One key takeaway from our hearing was that the U.S. should follow the lead of our allies in the Lima Group in pursuing a regional solution to this crisis. After many years of disagreement, there is now consensus in the region that Maduro is an illegitimate president, and new elections must be called.

It also came through in our hearing that the U.S. should convey solidarity with the people of Venezuela who have shown incredible resilience in the face of a brutal authoritarian regime. I believe we in Congress should be unified in condemning the Maduro regime, expressing our full support for the interim government of Juan Guaido, and calling for free and fair election as soon as possible.

It is important that while we conduct the appropriate and necessary oversight of this administration, we never lose sight of who caused the manmade crisis. I encourage my colleagues to make every effort to call out Maduro and his thugs for who they really are as we consider next steps to support the Venezuelan people.

I have been following the Venezuela issue very closely for many years, and I have seen how Maduro has repeatedly called for dialog. Each time he merely used it as a stalling tactic to weaken the political opposition. That said, I do not feel that military intervention is the answer to this problem. It is not the way to bring democracy back to Venezuela. The Venezuelan people and governments throughout the region have all been loud and clear in calling for a peaceful, civilian-led solution to this crisis.

But in pressing for a peaceful transition to democracy, we need to be careful not to play into Maduro's tactics for self-preservation. I firmly belief that in this battle between democracy and dictator-

ship, we must stand on the side of the Venezuelan people who are clearly demanding change.

So with this goal in mind of free and fair elections in Venezuela, I want to ask Dr. Chavez, can you talk about what steps the Administration could take to further coordinate its diplomatic and humanitarian responses with the allies in Latin America?

Ms. CHAVEZ. Thank you for the question. So I think you are touching on two issues that are both very important. One is the delivery of humanitarian assistance, which I will get to a second. The first, though, I think is about the role of dialog and working in a multilateral fashion.

So I do agree, I think there have been, in the past, I think three major attempts at negotiation with Maduro, and in all cases he used them to buy time, basically. However, I think that there is a new opportunity now with the International Contact Group, which was created in early February, to push—you know, with the sole purpose of pushing for new elections and also for delivering humanitarian aid.

It has been very active behind the scenes as sort of a shuttle diplomacy, discrete meetings with Maduro—with the Maduro regime, with the opposition, and also with civil society members. I think we should continue to encourage that.

The other thing that I think is very important about this new effort at dialog is that it includes preconditions, which is something that the other dialog's previous attempts did not.

You are right about the Lima Group. I think we need to continue to let it take this leadership position to find diplomatic solution. And I do not think we should underestimate the fact that the Lima Group actually exists and has been so outspoken and has taken a front seat, given the very hands-off approach that we saw from the Latin American countries until 2017. And I also think that OAS, under Luis Almagro's leadership, has also had a lot of potential and is having impact.

As far as the delivery of humanitarian assistance, I think it is very important that we, as much as we can, we depoliticize it, which would mean the U.S. and other donors turning—at least taking a lower profile and turning to a more neutral organization, such as the U.N. or the International Red Cross, or even local NGO's that are ready and standing by to support the delivery of humanitarian assistance into the country.

Mr. SIRES. My time is up. Thank you.

Mr. CICILLINE [presiding]. Thank you.

The chair now recognizes the gentleman from Florida, Mr. Yoho, for 5 minutes.

Mr. YOHO. Thank you, Mr. Chairman. I appreciate the panelists here.

Dr. Chavez, what form of official government does Venezuela have that is recognized? What is the form of it? Or, Dr. Pearlstein, whichever one wants to answer that. Go ahead.

Ms. CHAVEZ. So the current under Maduro, it is not a——

Mr. YOHO. No, what is it recognized as? If you look it up, what form of government does it have?

Ms. CHAVEZ. It is a dictatorship.

Mr. YOHO. It is registered as a Presidential constitutional republic is what it is registered as.

Ms. CHAVEZ. Right.

Mr. YOHO. And that is what is recognized in the world. But as you pointed out, that is not what is being practiced, right?

Were the last elections fair?

Ms. CHAVEZ. No. So, first of all, Maduro was Chavez's handpicked successor.

Mr. YOHO. OK. So we are all in agreement with that. The Venezuelan Government, or the Constitution, allows for Juan Guaido to claim the Presidency, does it not, if we go by the Constitution?

Ms. CHAVEZ. So——

Mr. YOHO. Their Constitution.

Ms. CHAVEZ. So actually, the Constitution, the Venezuelan Constitution, does not really address the possibility that something like this—that this would happen. However, because the National Assembly is really the only——

Mr. YOHO. The National Assembly——

Ms. CHAVEZ [continuing]. Democratic institution and Juan Guaido is president of the National Assembly, it makes—I mean, it is appropriate that he is interim president.

Mr. YOHO. OK. Does anybody have a different opinion? Dr. Neumann?

Ms. NEUMANN. Yes, I am sorry. It actually is entirely foreseen in the Constitution, which was actually drafted and passed in 1999, that would be under Hugo Chavez. So Juan Guaido is the interim president of Venezuela, under the Constitution that is supposed to be defended by the dictatorship. Ironically, it is the Guaido side that is defending the Constitution. It entirely foresees that if the position is vacated because the election is not recognized, as it was not at the time by more than 60 countries in the world, and the Venezuelan National Assembly, then it is vacant. And then it falls to the President of the National Assembly. That is written in the Constitution.

Mr. YOHO. That was my understanding. We met with the Ambassador Vecchio and we talked about that. The research I did says that there are approximately 65 countries that recognize Juan Guaido as the legitimate president. That is about a third of the world's countries. You know, of 195 countries, approximately about a third of them recognize Juan Guaido.

And then you have Maduro, who, as you said, is a dictator. There are roughly 33 million people. There has been blackouts. It is one of the richest countries, resource-wise, that they have plundered. And they have stolen over $11 billion worth of petroleum revenues from and robbed them from the Venezuelan people.

So now, as you pointed out, there is a third of the population has lost over 25 pounds. There is rampant debt. There is starvation. Maduro is stopping the humanitarian crisis there. And, you know, and I cannot fathom this, but it is like a 1.3 million percent inflation. Now, I cannot imagine anything getting any worse, but if we do nothing, it will be worse.

And, Dr. Chavez, you were talking about, you know—and I agree with David, my colleague here, Mr. Cicilline, about interfering in there, that it may destabilize that area. But I would argue it is de-

stabilized now. And the 14,000 FARC members, they are going to destabilize anyways, whether we are there or not.

And I agree with the sentiment that I would rather have an AUMF authorized by Congress, but to argue now at this point is going to jeopardize the legitimate president that is recognized by their Constitution and the National Assembly.

And, you know, let me ask you this: What countries are there helping Maduro? What government or other countries are helping Maduro, propping him up? Dr. Neumann? You raised your hand first.

Ms. NEUMANN. I like to raise my hand.

Well, Russia, Cuba, China, Iran, but all in different ways and——

Mr. YOHO. And Turkey. I am about out of time. What countries are there helping the Venezuelan people?

Ms. NEUMANN. Well——

Mr. YOHO. Let me ask Ms. Pearlstein.

Ms. NEUMANN. None really. The U.S. has the food at the border. That is the closest we have come.

Mr. YOHO. Other than Colombia?

Ms. PEARLSTEIN. I am an expert in U.S. Constitutional law, not international law.

Mr. YOHO. Dr. Chavez, other than Colombia, are there any other countries helping them, helping the Venezuelan people?

Ms. CHAVEZ. I think that there are 54 countries have declared their support for Guaido.

Mr. YOHO. Right. But Colombia is the only one, because all those people are going into Colombia right now.

Ms. CHAVEZ. Well, actually, Colombia is not the only one country that is——

Mr. YOHO. I will take—it is probably the largest country. The point is——

Ms. CHAVEZ. Other countries have accepted, for example, 800,000. I mean, I just want to emphasize——

Mr. YOHO. I stand corrected.

Ms. CHAVEZ [continuing]. It is not just Colombia.

Mr. YOHO. And my chairman is gaveling me, so I have to stop, but I think to pull that AUMF right now is going to jeopardize the Venezuelan people, and you will see Mr. Guaido go to prison or worse.

I yield back.

Mr. CICILLINE [presiding]. I thank the gentleman. He yields back. I recognize myself for 5 minutes. I want to start with you, Ms. Pearlstein, as an expert in this area. I think actually in your written testimony, you said there is nothing remarkable—H.R. 1004 is an unremarkable and constitutional assertion of a congressional power to restrict the introduction of U.S. Armed Forces into hostilities.

I would normally maybe not appreciate my legislation being considered unremarkable, but I think you make a really important point, that this legislation is really reflecting the constitutional requirement that before men and women of the Armed Forces are deployed in hostilities, that it requires congressional authorization. And the only remarkable thing, frankly, has been that it has hap-

pened so often without congressional authorization. And that is really the point to Dr. Neumann's comment about it, you know, being a partisan divide.

One of the things we can do to the world is continue to act like a democracy, and let people see real debate and respect for rule of law, and a Constitution that, by its terms, requires congressional action. And when a President, not a dictator, is what we have in America, says he is going to use force without coming to Congress that we ought to speak out against that. And so I just wonder if I have gotten that right?

Ms. PEARLSTEIN. I think you have it exactly right, sir. I would just note, sort of historically, there has been this perfect catch–22 that Congress has designed to explain its inaction generally, or its lack of action generally in this area. And it is in the firsthand, right? Well, it would be premature to act now because we do not want to tie the President's hands, which makes sense; but it is invariably coupled with the second part of the argument, which is, once a President has acted, Congress regularly says, we do not want to act now, so as to undermine the initiative of the President, or undermine and, indeed, endanger our troops overseas.

And the effect of that invariable coupling of rationales has been inaction, sort of, permanently. The good news is Congress is capable of sending more than one message at once, and Congress is equally capable of acting on more than one occasion as circumstances evolve.

So it seems to me entirely plausible and, indeed, possible, based on the sort of bipartisan sense of the room, that Congress may legislate to condemn the actions of their current leader, to decry the gross violations of human rights that are going on there, and, at the same time, to make clear that in a democracy, we are going to follow the rule of law.

Mr. CICILLINE. Thank you. And that is why this legislation is actually bipartisan, I think, for precisely that reason. We all acknowledge the horrors of what is happening in Venezuela. I said that during my testimony. The real question before this committee is whether or not this declaration by Congress that the use of force is not authorized without congressional action is helpful or not.

And, Dr. Chavez, I want to ask you, you say in your written testimony and you said it again in your oral testimony, that we would squander the goodwill and partnership if we continue to threaten military action.

Would you speak a little bit about what you mean by that? Because I have heard from a number of people that we have to be conscious of our history in the region, and what we have done to repair America's standing in that region, and what the repeated threats of military action might do to undermine our effectiveness as a partner?

Ms. CHAVEZ. Sure. Well, first of all, I do want to acknowledge and applaud the Administration for the multilateral work that it is—especially working closely with the Lima Group and the European Union. But the threats, I think, are actually—there are a number of reasons that I think they are counterproductive.

One is the reason that you are referencing, that this continued saber rattling is going to hinder our ability to act multilaterally

with our allies. It undermines the consensus. One of the beautiful things that has happened is that there is consensus. Again, this is unprecedented for such outspoken consensus in the region with the United States. And the consensus is that a negotiated solution is the best option.

Things like a tweet that glorifies past military interventions, in particular, there was a tweet with images of before and after of Qadhafi. I mean, those I think in the region—I mean, that is meant, I guess, to kind of keep Maduro on his toes or off balance, but what that is is, it is seen by the region as glorifying past U.S. military interventions, which, in this region, does not go over well. The logic behind a threat is—like I said, I understand it. It is to keep Maduro off balance, to, you know, we do not know——

Mr. CICILLINE. Can I ask you one question, because my time is running out. Have you seen any evidence—I have heard from a number of people about the use of this saber rattling by Maduro and by the regime as propaganda to kind of rally the country around him. If you could speak to that.

Ms. CHAVEZ. Yes. Yes, absolutely. I mean, this plays into—I mean, these are—the tweet, for example, that was a gift to Maduro. It plays into his narrative about the United States. And it plays into the message to the entire region. It plays into his narrative or the message he is trying to convey to the rest of the region as well.

Mr. CICILLINE. Thank you very much. My time has expired.

I now recognize the gentleman from Florida, Mr. Rooney, for 5 minutes.

Mr. ROONEY. Thank you, Mr. Chairman.

Let me make one thing clear. There has been a lot of talk about use of military force, but the question before the table now is whether or not to keep the option in our quiver, not whether to use military force right now. It is a major distinction.

And I would say after the actions of the Attorney General and the Venezuelan Supreme Court today, if we ever needed to keep every weapon and tactic in our quiver, we need to do it right now. We are just fortunate that Mr. Guaido is still alive.

I would say, third, that thousands of years of human nature make it pretty clear that to take away an important weapon in a fight like this will only embolden a person like Maduro and probably, ironically enough, make it more likely that we have to use military force someday that we would otherwise not ever have to use.

Elliott Abrams made it clear that none of our allies in the Lima Group, et cetera, have any problem with the fact that we have said we want to keep all options on the table. And the last thing he said is, there is no plan for military action now.

With clarifying those record matters, I would like to ask Dr. Neumann, what do you think our adversaries, like Russia, China, Iran, et cetera, are going to perceive were we to remove military force from our quiver of weapons?

Ms. NEUMANN. Thank you very much. They will see it as a sign of weakness and an exploitable weakness. So my company is called Asymmetrica, because one of my other credentials is I have pre-

viously worked with the Asymmetric Warfare Group at DoD for years, in fact.

And what you do is what we call a vulnerability detection exercise, which the Russians are also very good at. So it is important that it be kept on the table. I want to be very clear, that I agree that the discussion of intervention is entirely premature.

My concern—and I am not opining on U.S. constitutional matters. My sole opinion here is that having this debate and passing this legislation significantly endangers a vast population, the last vestige of democracy, and greatly increases the odds that we will have vast terrorist recruitment, and a larger conflagration in our hemisphere just a few months from now.

Mr. ROONEY. Thank you. Dr. Neumann, one more question, kind of the obverse of Mrs. Chavez's answer: What message would this type of legislation and the obvious reflection of divisions among the Congress send to those military officials who may be thinking of defecting from Maduro, would like to break with him, but are either too timid, or too coerced, or their family is too coerced to do it?

Ms. NEUMANN. Thank you for the question. Yes. So the question of military changing their mind. There are a number of things. As you know, if you have ever worked with off-ramping armed fighters, which I have, they need to believe that the exit ramp is credible and that there is a path that will entail their security, and that their families will not be killed.

That is one of the problems that the military commanders have in Venezuela is that Cuban officers follow their kids to school, harass their wives as they leave their chemo treatments, because they are about the last people who can get chemo treatments in Venezuela, and other such forms of harassment. And they will tell them where their relatives are. So it is the behavior of a cartel, and that is one of the issues.

Removing the stick off the table, separate from American constitutional issues, will complicate the transition to a democracy, which we so desperately need.

Mr. ROONEY. Thank you, Dr. Neumann.

I yield back.

Mr. CICILLINE. I thank the gentleman for yielding back. And I would just remind the gentleman that nothing in the legislation that we are currently considering takes this military option off the table. It simply requires engagement from the Congress of the United States.

So, with that, I recognize the gentleman from New York, Mr. Espaillat, for 5 minutes.

Mr. ESPAILLAT. Thank you, Mr. Chairman.

I want to thank all the panelists because all of your testimoneys have been compelling, and I think they make us think about the different perspectives that are out there regarding Venezuela.

And, in fact, you know, there is not much of a divide here. I think there is a consensus that Maduro is a dictator. I think there is a consensus that Venezuela is facing a humanitarian crisis of unprecedented levels. I think there is a consensus that we must have free and democratic and transparent elections in Venezuela, that, in fact, sanctions should be applied and the Magnitsky Act has

been applied to certain people. There is a consensus, a very large consensus here.

I think the difference here is whether or not military action should be applied. And I believe that an empty threat is not a threat at all. So unless you are willing to use military force, do not use the threat. I think the countries are far too sophisticated to understand when there is an empty threat or not and, in fact, some of you have specified during the—detailed during this panel, the region itself is very sensitive to dictators, right, first of all, from both sides, from the left and the right, and also to intervention.

So the region is very sensitive and open to help, because many of the countries in the regions have been under the boot of a dictator, and many of the countries in the region have also been intervened and occupied. So these are two very sensitive issues.

And so, what I would like to ask is something more specific. The U.S. is still purchasing oil from Venezuela. Do you think that we should stop purchasing oil? I know that there has been a reduction. Do you think that we should stop, totally stop purchasing oil from Venezuela? First, Ms. Neumann and then anyone else that would like to.

Ms. NEUMANN. Yes. I mean, I believe we stop that and any purchases of money now go into frozen bank accounts that cannot be controlled by Maduro. So I think that is satisfactory. I mean, I would have no insight into whether Guaido administration has access to those bank accounts or not. I have no way of knowing. But that is good not to hand money to the dictator who is not there constitutionally, and is causing the biggest humanitarian crisis in the hemisphere.

Mr. ESPAILLAT. Now, I understand also that there is a rift between some Chavistas and the Maduro regime. Could you elaborate a little bit on that? Is there any truth to that, that some hard-core Chavistas are also not for Maduro?

Ms. CHAVEZ. I think there has historically been tension.

Mr. ESPAILLAT. Please, Ms. Chavez, Dr. Chavez.

Ms. CHAVEZ. There has historically been tension. I mean, I think you have the Diosdado Cabello, who is always kind of angling in for a position. I think that there are fissures in that sense within the government. Would you agree? I mean——

Ms. NEUMANN. Yes, I would agree. So if Chavez rose—Chavez rose as a sort of revolutionary hero with the phrase por ahora in 1992 when he failed in his coup attempt. So once a putschist, always a putschist maybe. I do not know. But he had some credibility or backing by the people as being a fighter for them. There are a lot of people who think that Bolivarian experiment has gone off course by becoming basically a criminal organization. And by that, I mean even people who supported the movement.

The other issue is that Chavez was a revolutionary fighter. Maduro is not. He is a former bus driver who has basically been trained in Cuba. So he does not have—and if you have worked these issues in Africa, they have similar things where, like, if you were the anticolonialist fighter, it gives you some more public support, rather than just being viewed as a foreign puppet, which is what Maduro is.

Mr. ESPAILLAT. Just one last quick question: And so, given the very fragile condition of Venezuela and the Venezuelan people are going through hell right now, do any of you believe that military intervention would exacerbate and maybe spiral the situation out of control into conditions that we have never seen in this continent?

Ms. CHAVEZ. Absolutely. As I said in my written testimony, I go into great detail on this, that this would set the stage for a prolonged low-intensity conflict. I am as concerned about a Chavista insurgency as I am about the Venezuelan military.

The number of unarmed groups—I mean, armed groups and weapons in the country is extraordinary. I think there are 2.7 million illicit arms flowing around the country, second only to Brazil. You have the Colectivos. You have the Bolivarian militias. You have the Special Forces, the FAES. All of these groups—and the FARC and the ELN, as mentioned earlier. All of these groups have incentives, whether it be ideological or because their livelihood is tied to Chavez, to continue the struggle and to enter into a phase of guerilla warfare.

So, I think it would create an extremely messy situation, and it would be prolonged. It would be ugly. There would be massive casualties. So I think the picture is very grim.

Mr. ESPAILLAT. Thank you.

Mr. CICILLINE. Thank you. The time of the gentleman has expired.

I now recognize the gentleman from New York, Mr. Zeldin, for 5 minutes.

Mr. ZELDIN. Thank you, Mr. Chairman.

And one of the interesting dynamics of this particular conversation—I do not know any member of this committee—I am not aware of any member of this committee advocating for military intervention in Venezuela. I do not know any member of this committee who believes that Congress does not have an important Article I responsibility here as it relates to military intervention with Venezuela.

I would be interested in knowing, are any of you familiar with the four instruments of national power?

Ms. NEUMANN. Well, DIME, DIMEFIL, yes.

Mr. ZELDIN. Can you explain the DIME principle?

Ms. NEUMANN. Diplomatic, intell——

Mr. ZELDIN. Information.

Ms. NEUMANN. Diplomatic, information, military—wait, wait—economic.

Mr. ZELDIN. Perfect.

Ms. NEUMANN. Thank you. And then the FIL is the other three, yeah.

Mr. ZELDIN. All right, gold star. So there are four instruments of national power, the DIME principle: Diplomacy, information, military, economics. And what we have seen around the globe over the course of history with our foreign policy where the world of our military overlaps with the State Department. You could talk about the DIME principle in North Korea, the DIME principle in Iran, where having the M option on the table in North Korea ends up making the diplomatic effort for multilateral or bilateral diplomacy

or your efforts to ramp up the economic pressure more effective, because the M is real. The intelligence on Kim Jong-un is he is known not to be—known to be homicidal, not suicidal. And where he thought that there was a possibility that the United States may actually strike North Korea, that was something that was a dynamic that changed over the course of 2017.

I think one of the main areas that just really get to the heart of where there might be a disagreement right now is that there are many members of this committee who believe that the diplomatic, information, economic components of the DIME principle are more effective with the M option on the table.

That does not mean that member is advocating for military intervention. It does not mean that that member is advocating against Congress' important Article I powers. But I do believe that it is very important for the military option to be on the able, but I do not want to see military—I do not want to see the military option actually get implemented.

So it is just something—I mean, it is an elephant that is in the room right now that I just wanted to get to the heart of. I do believe that this debate is very important for a future date. It is fine that we are having this conversation and we are talking about really important issues for Venezuela. There is a possibility that at some point in the future, that we might be debating an authorization for the use of military force or some type of declaration. Maybe it is not—maybe it is Venezuela, maybe it is some other country. We do not know exactly what is ahead as it relates to that in the future.

But I would not want any of the points to be taken away from any members on either side of the aisle, because I think there is actually a lot more bipartisan agreement here on this issue than might manifest itself over the course of the hearing.

Earlier on, there was a discussion of the Venezuelan Constitution. Article 233 has been interpreted to give Juan Guaido power in a situation such as this. It is the United States Government's position to recognize Juan Guaido, and in the current position that he is in, in charge of the National Assembly, it is important for us to support Juan Guaido in that capacity. I fear for his life at this particular moment in time.

And I think that in this conversation, while we debate what Congress' appropriate role is here, in this particular moment, we also should find the bandwidth. We should find the room in this debate to also talk about what Congress can do to help the situation as much as possible so that that does not get lost.

So I appreciate the chairman here right now, I guess Chairman Cicilline for the moment, for him encouraging this debate on this day, but I just wanted to share some thoughts as to why—we say we cannot be silent not because we want war, but because we want to prevent it. And we should never send our troops into harm's way unless they are set up to succeed. You send your troops to succeed or you do not send them at all. There are basic principles I believe that we all would agree on. But hopefully, the Congress' action as a result of this hearing is not one that takes the military option off the table, not because we want war, but because we want the

diplomacy, the information effort, and the economic pressure to be as effective as possible.

I yield back.

Mr. CICILLINE. Thank you. I thank the gentleman from New York. I now recognize the gentleman from Texas, Mr. Allred, for 5 minutes.

Mr. ALLRED. Thank you, Mr. Chairman.

And thank you all for being here today, and thank you for your testimony. I read through your written testimony. I have learned a lot from it and, of course, I think it is very important that we are discussing this right now.

You know, I am a new Member of Congress, and when I was seeking this office I talked a lot about how things here can too simply be boiled down into black and white. This issue to me falls into a gray area. I am a civil rights lawyer, and I am very sensitive to the constitutional concerns at play with our war powers exercise and how that has been eroded over time and how Article I powers have been ignored for too long.

But I am also sensitive to some of the statements that my colleagues have made here on the other side of the aisle about sending conflicting signals and trying to make sure that whatever comes out of the U.S. Congress is a unified message that we oppose the Maduro regime, that we support the new government under President Guaido, and that we are not going to allow this to happen in our region, in our hemisphere. So I want to try and boil down a little bit and get past kind of the caricature of, you know, Democrats are trying to do this or Republicans are trying to do that.

Dr. Chavez, maybe this would be best directed to you first. What would you recommend that we do in addition to this bill that is being considered and is being discussed to make sure that if we do take this action, that we are not sending a conflicting signal and that we are speaking with a single voice here?

Ms. CHAVEZ. I think one step would be the formal recognition of Juan Guaido, bipartisan. I think that would be one I think that would be relatively easy. I think that there are other things that we could do, maybe not directly related to the particular question of military intervention, but one would be, I mean, to continue to focus on the fact that there are 3.4 million refugees and migrants flowing out of the country.

My question, I think an important question we should be asking is how can we, as the United States, help with this? And I think there, there are two things that we could do. One is we could contribute more to the regional response. The U.N. recently had a study, it was 2019, that says that it is going to require—and this is just today, and as we know, it has been referenced so the numbers are going to increase.

There is about $750 million required. The U.S. had, between fiscal years 2017 and 2019, has said it is about $150 million. That is a nice start, but it is not near enough. We need to be giving more. Colombia alone is going to need $315 million. So more financial assistance to this effort.

The second piece of that, is extending temporary protected status to Venezuelans. I mean, what is happening now is we are asking

countries of the region—we are acknowledging that they are overwhelmed. We are acknowledging that not just Colombia but, as I referenced earlier, Peru, Argentina, Chile, the islands in the Caribbean, Trinidad and Tobago is being overwhelmed, that we extend temporary protected status to Venezuela. I think that is something that we can do. We can do it soon. I heard when Abrams said that that is something that is being under consideration, I hope it is being considered very seriously.

Mr. ALLRED. Thank you. I completely agree with you. And we have had a bipartisan request from some Senators to extend TPS protections to Venezuelan refugees, and I would encourage members of this committee to consider that as well.

My time is running out, so I want to go to you, Professor Pearlstein, and talk about the constitutional issues here. And I want to go back to law school a little bit. I am a lawyer and we can kind of nerd out here a little bit and go back to the Steel Seizure case, and just ask you if this expression of Congress, how that would affect the President's ability to act under Article II, and how that it would interact with that precedent?

Ms. PEARLSTEIN. Thank you. I am delighted to nerd out on constitutional law.

So let me begin by responding to that by picking up on the point that has been made by describing what 1004 is trying to do is removing authority, or taking something off the table, right? Currently, the President has no authority under the Constitution or under any source of authority statutorily to introduce forces into hostilities in Venezuela. My view is, I do not believe in a democracy a President can credibly threaten force that he has no legal authority to use. That is the current status quo, right? That is the state of affairs if Congress does absolutely nothing here.

What this does is interject and say, Congress is watching. We are not taking anything off the table, but we are saying before you take the next step, we will specifically authorize funding, right? This is just about the money, right? And this is simply reiterating you cannot spend money we have not given you to spend, right? I think that is the critical point here. This does not change the constitutional dynamic in any important way, with the exception of the Steel Seizure point, right?

The Steel Seizure point, Justice Jackson's famous concurrence says the scope of the President's powers waxes and wanes as a function of what Congress does. When Congress has said nothing, right, the President is acting in, effectively, a constitutional twilight zone. Perhaps the President can claim power that even though we know what the Constitution says he does not have, perhaps the President will have an argument there. It will depend on temporary imponderables, in the words of the Court.

The President is in a different constitutional position when Congress has affirmatively said not yet, or no. And that is the shift, that is the gearshift that this legislation would make. It would say, whatever arguments you think you have based on past practice are not available in the moment in which we have said not yet.

Mr. ALLRED. Thank you so much.

Thank you for your indulgence, Mr. Chairman.

Mr. ESPAILLAT [presiding]. I recognize the gentleman from New Jersey, Mr. Smith, 5 minutes.

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

Thank you all for your testimoneys. I would like to ask Dr. Neumann, if you could—and a lot of my questions have been answered. So I do have one final question I would like to ask, and that is on the issue of war crimes, or crimes against humanity indictments.

I was very involved with the court of Yugoslavia, with Slobodan Milosevic, and worked very hard on that, held multiple hearings on it as well. When Rwanda and the atrocities committed there occurred, I also was very supportive of the court, which was a regional court. And then David Crane, who was the chief prosecutor for the court of Sierra Leone, I had several hearings and he was extraordinarily effective. And Charles Taylor sits in prison today with a 50-year prison sentence, former President of Liberia, for his egregious crimes because of those prosecutions.

What kind of game-changer might it be if Maduro were to be indicted? There is preliminary work that is being done by the ICC. I think it is often too slow and not aggressive enough in gathering facts, but nevertheless, the chief prosecutor, Mrs. Bensouda, has gotten a referral from six States, beginning with Argentina, Canada, Colombia, Chile, Paraguay, and Peru, and on February 18th announced that she has opened an independent impartial review on the number of communications—from the number of communications and reports documenting alleged crimes falling within the jurisdiction of the ICC.

And, of course, this is not a panacea, but I have met with Bashir; I am one of the few people who met with Bashir. The first thing he wants lifted from his resume is the fact that he is an indicted war criminal. He always runs the risk of being extradited. I remember we tried very hard in the European Union especially, to get Ankara to do that when he was going to visit there. China would do it. But that does hang over him as kind of a sword of Damocles. He is wanted and we prosecuted him. People like Milosevic never thought that they would face a jury or a group of, I should say, judges. Of course, he died before a verdict was rendered in Yugoslavia.

But it seems to me the time has come in addition to—and I do believe all cards should be on the table. I do not think intervention by the U.S., that case has been made, but it might. But I think, as you said, Dr. Neumann, multilateral—I mean, we do it all the time. We empower African Union peacekeepers all the time where there is no peace to keep. They go in more as peacemakers under the guise of peacekeepers. And I was in Darfur when the first deployment was made there by peacekeepers and there was no peace, but they were there, nevertheless, trying to separate the Janjaweed and others from their victims.

So what would an indictment do to this situation? Do you have confidence that the ICC might be able to really take this up aggressively? One of the knocks against them is that most of the indictments have been against sub-Saharan Africans, including the President of Kenya. So it seems to me if Maduro does not fit the bill for someone who is committing atrocities, I do not know who does. So my hope is one of the messages going out of this hearing

will be "let's indict Maduro." Let's let the world community bring him to the Hague and to be held accountable for these egregious crimes that he is committing every day.

Dr. Neumann, your thoughts.

Ms. NEUMANN. Thank you very much. Yes, from a Venezuelan perspective, it is a real game-changer for a number of reasons. As I explained before, you know, this whole concept of the Bolivarian Revolution was supposed to bring peace, justice, include marginalized populations, and a greater enactment of human rights. The fact that it has gone in precisely the opposite direction and the OAS—you will forgive me, I do not have the numbers today, but I believe that—to hand, but it is the OAS report, which was comprehensive.

I do not know. Over 13,000 extrajudicial killings. It considered the use of food and privation of food as political policy as a form of—I do not know, I think they called it a slow-motion genocide. I am not sure. They definitely called it a crime against humanity.

And it is a game-changer, because it undermines the narrative of what these guys are about. It really presents the opportunity that he will be gone, that there is a possibility that he will face trial. It acts as a disincentive to those who support him, that you do not want to be caught up in this. I mean, you know, you are in it either for the money or either the ideology first and then the money later, but you want to change your mind.

And also, quickly, from a Latin American perspective, the fact that all those other Latin American countries backed the case before the ICC has never happened before in the hemisphere. So that is another signal that the countries of the hemisphere are changing in their relationship to international institutions, their views of institutional support and democracy. They want to play on the side of rule of law and be taken seriously, despite the fact that they have a complicated history with their own democratic institutions in the past. The region has been growing up and Venezuela remains a black mark, and the ICC case is a turning point, both internally and internationally.

Mr. SMITH. Thank you for your indulgence.

Our other distinguished witnesses, should he be indicted, Maduro?

Ms. PEARLSTEIN. Could Maduro be indicted?

Mr. SMITH. Should he be?

Ms. PEARLSTEIN. Should he be? I am a supporter of the role of international criminal law in this role. I think the ICC is in a position to play an effective role. I think their role would be more effective with active U.S. support of international criminal law in this regard.

Mr. SMITH. As you know, both Republicans and Democrats have not—I mean, President Obama had House and Senate, there was no ratification. Clinton did sign it, but there has always been opposition from the Pentagon. But, that said, there could be a referral from the Security Council. So there is no doubt that that is one avenue that is open even to us. There is already enough. Six countries, I think, is enough to get the ball rolling.

Ms. PEARLSTEIN. Yes.

Mr. SMITH. But should he be indicted, in your view?

Ms. PEARLSTEIN. Should the facts——

Mr. SMITH. Maduro.

Ms. PEARLSTEIN. Yes. Should the facts support it, I would absolutely support an indictment.

Mr. SMITH. Based on what you know?

Ms. PEARLSTEIN. Based on what I know, certainly.

Mr. SMITH. Yes, Dr. Chavez.

Ms. CHAVEZ. So I think that this is a question that is going to be up to the people of Venezuela. I mean, there are a lot of questions over amnesty, but there is also talk of providing Maduro some sort of off-ramp. As repugnant as that might be, there has been talk about—and I do not think we want to necessarily take that off the table either.

Mr. SMITH. Sometimes an indictment sharpens the mind.

Ms. CHAVEZ. No, no.

Mr. SMITH. Mengistu has an off-ramp out of Ethiopia, but there was a lot—there was a clamor for his prosecution, not at the ICC, but elsewhere. Thank you.

Mr. CICILLINE [presiding]. The gentleman's time has expired.

I recognize the gentleman from New Jersey, Mr. Malinowski, for 5 minutes.

Mr. MALINOWSKI. Thank you, Mr. Chairman.

And let me start by saying I like Congressman Smith's idea of the ICC. One small problem is that my understanding is that the Administration is currently considering imposing a visa ban on ICC officials, and sanctioning countries around the world that support the ICC. And that might be another direct blow to the solidarity within the region that has built up around Colombia and Venezuela. And I would hope that we would urge the Administration not to go in that direction.

Dr. Chavez, I want to come back to the very scary picture that you painted of potential conflict in Venezuela. Now, you painted that picture in the context of potential military intervention. But when you describe a country that contains millions of people who are armed, that is extremely polarized and factionalized, where all sides are increasingly desperate, it sounded to me like you were painting a picture of a potential conflict or civil war that could very well take place without any sort of external intervention, and I wanted you to maybe elaborate on that a little bit.

Ms. CHAVEZ. No. And I do think that something—that—you are right, and I think that the level of violence is increasing. The level of desperation of the Venezuelan people is increasing. And so I think that things could get a lot worse before they get better, which is why I think the very sad fact is that there is really no silver bullet, and perhaps that is why military intervention was considered an option is maybe that would be something that would be quick. I think we all want something quick to stem this tide, this tragedy.

I think the issue of peacekeeping came up. I could imagine, at some point, an international coalition, and the U.S. being part of this coalition of forces, to deal with the situation in Venezuela. It is a unilateral U.S. military intervention that I am opposed to.

Mr. MALINOWSKI. Well, you just anticipated my next question, and that is precisely whether that kind of State collapse followed by an outbreak of civil war-type violence in Venezuela could alter

the perceptions of regional countries—the OAS, Colombia—about the need for some sort of cooperative multilateral intervention to restore peace and protect civilian life. And that does get back to the question on the table, because this resolution does not really differentiate between various scenarios that might arise in the future.

Now, as everybody has pointed out, the resolution does not, in fact, take the threat of military intervention off the table. Legally, it does not do that. It could be perceived, though, as carrying that message, which is one reason there has been kind of confused debate about it today. Are we debating the merits of military intervention, or are we simply debating the congressional role in a decision with respect to military intervention?

Is there a risk, because, again, we have to make a decision as to what is wise here. The resolution is not compelled legally. We have an absolute legal right to pass this, but we are not compelled to. So the question is, is it wise? And I think we all understand that threats of military intervention are unwise right now. Tweets of the sort you describe, profoundly unwise.

But convince me that an affirmative vote by the Congress for a resolution that could be perceived as taking the possibility of any form of military involvement, including through peacekeeping, off the table would be wise and necessary at this point.

Ms. CHAVEZ. So what I can say to that is I am going to defer to the constitutional law scholar about the type of military intervention would be permissible, but what I would say is that I would not want to take a multilateral coalition-type response to what is going on off the table. Our right to protect—I mean, I think there are—it might come to that. And just—and if we—one thing I want to say about this is that the countries of the region of Latin America, it is often overlooked that they have great experience and know-how when it comes to peacekeeping. Uruguay, Chile, Brazil. Mexico is getting into this game. I mean, I think that if the calculus changes, that would be the way to go.

As far as the legal constitutional piece, I am not as clear on.

Mr. MALINOWSKI. Thank you. My time is up, so it is up to the chairman. But if you want to address that, sure.

Mr. CICILLINE. The gentleman's time has expired, but the witness is certainly free to answer the question.

Ms. PEARLSTEIN. Certainly. I think the constitutional question here is straightforward and noncomplicated. The concern that this might convey a message that Congress is not intending to convey, right, I think that is beyond my pay grade as a lawyer. But I want to make clear, right, that this is a funding restriction, and it says by its terms, we can do this by specific statutory authorization.

If this bill is coupled with some of the other measures that Congress is considering, it seems to me entirely plausible that the message sent will be one of a Congress actually seized of the issue and determined to engage.

Mr. CICILLINE. Thank you very much.

The chair now recognizes the distinguished gentleman from the State of California, Mr. Vargas, for 5 minutes.

Mr. VARGAS. Mr. Chairman, thank you, again, and thank you for this opportunity. And thank you for bringing H.R. 1004 forward. I think it is important that we have this discussion. As I read section

2 of it, it says: "None of the funds authorized to be appropriated or otherwise made available to the Department of Defense or any other Federal department or agency may be used to introduce the Armed Forces of the United States into hostilities with respect to Venezuela except,"—"except a declaration of war, a specific statutory authorization described in subsection B, or a national emergency created by an attack upon the United States, its territories or possessions or the Armed Forces."

So what we are debating here, this bill is, in my opinion, what is that balance between the authority that we have as Congress, and the authority the President has. Arthur Schlesinger, I believe, was the author, the historian who said that there is the imperial Presidency now, and that in the last 100 years, the Presidency has grown tremendously and has usurped in a sense a lot of what Congress should be doing.

So, in my opinion, what we are doing here is debating what is that balance. And I think, Dr. Pearlstein, you mentioned it well. I think you mentioned James Madison, quoted him saying one person, it is not wise to have one person take us to war. Instead, it should be the community, in the sense the representatives, that make that decision. I agree with that wholeheartedly. And I think it is time that we take back that responsibility.

I think that we, unfortunately, have allowed the Presidency to grow in a way that is not healthy for our country, and I think we are seeing that right now in this particular Presidency, although we have seen it in other Presidencies, also with Democrats, to be fair.

So I think that this is very appropriate. I certainly will support it. However, I do think that what has been brought up here today, the issue of, you know, what message do we send to Venezuela, because I think we are all in agreement, and I have listened to all the testimony here today. I mean, it is a terrible situation. It is a horrible situation. No one disagrees with that. And that Maduro is a dictator, a thug, and a horrible human being, no one disagrees with that. I think we are all in agreement. Just what role do we have to play as Congress? And I think that that is important. We need to reestablish our position. And so that is why I certainly support it.

But I do have some questions, and I do want to follow up a little bit on this notion of how this will be taken in Venezuela. And, Dr. Neumann, maybe I will ask you that specifically. I know you take a little bit harder line than the other two, but I would like to know how you take this, because we are not taking anything off the table. We are just simply saying, you have to jump through these constitutional necessities first that are important to us, maybe not as important to Venezuela at this moment, but important to us. But I would like to know your opinion.

Ms. NEUMANN. Thank you very much. Thank you for your question. Yes, I am la mujer venezolana on the panel, and I am thrilled to be on with two other women. For the record, I wanted to say that.

And, of course, yes, I want to be really clear. I do not want to opine on the complications of internal domestic U.S. politics. I am a dual citizen. I am here to discuss the concerns from the Ven-

ezuelan perspective. I have, you know, as a moral political philosopher, vastly hundreds of pages on the rule of law.

Mr. VARGAS. Doctor, how will this affect the mentality in Venezuela? That is my question.

Ms. NEUMANN. The mentality is the mentality of a thug. It will be misconstrued to understand, to think that President Trump is hamstrung. Whether that is the intent or not, that is how it will be understood and represented by a man who has just called for the slaughter of his people by a multitude of armed groups.

Mr. VARGAS. Thank you.

Dr. Chavez, will you comment on that? Is that the way that you think that it will be understood in not only Venezuela, but Latin America? I know, because we do have allies here that are working with us.

Ms. CHAVEZ. So I actually think it would be welcomed by Latin America, the passage of this legislation, because I think that there have been so many mixed messages. So you have, for example, the tweets I referred to, or Secretary Pompeo's recent statement about the reason we are removing officials from our embassy is because we want to be—we do not want to be constrained when it comes to policy responses.

I think those sort of—I think having a clear message that no, that—I mean, not that we are not going to intervene militarily, but this particular legislation shows that we are going to think this through really carefully. This is a really big decision. Congress should play its role in it. So——

Mr. VARGAS. Thank you. My time is almost expired. I do want to say that I think we are out of equilibrium. The Constitution has these checks and balances, and we need to get back into that constitutional equilibrium. So I support this motion. Thank you.

Mr. TRONE [presiding]. I recognize Mr. Costa for 5 minutes.

Mr. COSTA. Thank you very much, Mr. Chairman, and members of the committee and the witnesses. I think you have done an excellent job.

The measures before us have as much to do with our own constitutional authority and the role in which Congress has abdicated part of that responsibility, as it does about our policy toward Venezuela. But let me drill down on a couple of things that have been discussed here already.

The policy of this administration, and I like the notion that was made a moment ago about consistency and policy. I think this administration, from my perspective, has had more difficulty being able to demonstrate consistency on a whole host of foreign policy initiatives, and I think this is but one example of that. All administrations wrestle with that, but this one seems to—when you have foreign policy by tweet, I think it is a very difficult challenge.

Having said that, they have engaged in a multilateral effort here. What would the three of you—comment quickly, because I have a few other questions—as to so far the policy that has been taken to embrace this multilateral effect, and what more do you think should we be doing? Dr. Chavez.

Ms. CHAVEZ. So like I said, I applaud that we have taken this multilateral approach. I think we should continue to, first and foremost, I think just recognize the importance of the Lima Group, and

what it is doing, and let them take the front seat in these diplomatic——

Mr. COSTA. So what more could we do?

Ms. CHAVEZ. I think we could also give the International Contact Group a chance. It is relatively new.

Mr. COSTA. Do they have a timeline?

Ms. CHAVEZ. So they started in early February, but they have already begun sort of the shuttle diplomacy effort. I think it is an important group also, because it is a very diverse group, with eight European countries, four Latin American countries. So, again, supporting that.

Mr. COSTA. Barrister Pearlstein? You are a barrister, are you not?

Ms. PEARLSTEIN. Pearlstein. Yes. I would just make the point that multilateralism in this regard, working with regional allies, ideally working with international allies, depending on what is coming down the road, may be necessary from the point of view of international law to make any subsequent U.S. cooperation——

Mr. COSTA. I think we concur with you, yes.

Ms. PEARLSTEIN [continuing]. Lawful.

Mr. COSTA. So what more could we do?

Ms. PEARLSTEIN. What more could we do? I think the engagement of the ICC, the engagement of the U.N. Security Council on some sort of resolution, whether or not, indeed, way before——

Mr. COSTA. For the off-ramp on Maduro, does the potential of an indictment help?

Ms. PEARLSTEIN. So there are a number of range—so there is a range of views on this peace versus security question.

Mr. COSTA. Right. We have different options that we are discussing right now.

Ms. PEARLSTEIN. Right. And the range of options that are available, my impression is the credible threat of indictment, should the facts bear that out, right, can help clarify thinking well before, right? The ICC process is a long one. There is an investigation and so forth. And allowing that process to begin does not foreclose any options.

Mr. COSTA. What would you care to add to that question about the Administration's——

Ms. NEUMANN. Thank you. The unilateral—the bipartisan acknowledgement of the Venezuelan Constitution and that Juan Guaido is the interim president under that Constitution.

Mr. COSTA. And we can do that as a Congress.

Ms. NEUMANN. Supporting a transition.

Mr. COSTA. We can do that as a Congress?

Ms. NEUMANN. As a Congress. There is a Congress. Support that transition. The calculus on multilateralism is going to change as the crisis deepens, so continue to develop strategies to prevent the spillover. And also, I believe supporting the prosecution of Maduro under RICO. Use RICO to support the Maduro indictment.

Mr. COSTA. You mentioned earlier the Organization of American States. Do you think that as one of the efforts or multiple efforts that we are using to force this change that the organization of American States is being used effectively? Is there more that could be done?

Ms. NEUMANN. Let me say that I am not an expert on the OAS, but, obviously, I have been following it. I think what more they could do? No.

Mr. COSTA. I mean, what if we were to call a meeting for all of them to come together and to——

Ms. NEUMANN. To develop a better contingency planning for the spectacular crisis. That if the refugee crisis was the second in the world before, it is going to skyrocket. We need better collaboration on contingency plan.

Mr. COSTA. Dr. Chavez, you look like you are anticipating an answer.

Ms. CHAVEZ. No, sir. I would say the OAS has really stepped up in a way that——

Mr. COSTA. Can they do more?

Ms. CHAVEZ. I think they could do more. I think that there should be more outreach. I think, for example, for Congress to more outreach to the OAS. But Luis Almagro has—I mean, he has been a force of nature.

Mr. COSTA. My time has expired, but a number of delegations are looking at visiting in the region here in the next couple months. I am with a group that may go to Colombia. What would you advise us to do for those that are visiting the area?

Ms. CHAVEZ. I would say spend time, go to Cucuta. Spend time on the border. See the magnitude of the humanitarian—of the suffering. I think you will also be surprised by—I mentioned earlier the importance of having a neutral party deliver humanitarian assistance. There are a lot of small local NGO's that are already there, and I think when you go to the border, you will see, whether it be Catholic Relief charities or local NGO's. And also, I would recommend talking to these folks to get a better sense of what the real challenges are when it comes to delivery of humanitarian assistance.

Mr. COSTA. Well, we will follow up with all of you. The three of you have done a very good job. Thank you.

Ms. NEUMANN. Thank you very much for your time. Thank you.

Mr. TRONE. I recognize myself for 5 minutes. I have one quick question, and we will head out the door. Given the myriad of problems facing Venezuela, what should we concentrate our U.S. resources on? Economic pressure? Redoubling humanitarian aid? Or additional resource to help the IDPs and refugees? Start on the left, Dr. Chavez, and we will go across the table.

Ms. CHAVEZ. I believe that the priority must be the delivery of humanitarian assistance.

Ms. NEUMANN. Yeah. Humanitarian assistance, getting it into the country, making sure it is not part of some illicit trade black market, or political repression. Humanitarian aid is No. 1.

Mr. TRONE. Ideas on how we get it past the border?

Ms. NEUMANN. No. I think—no. I think I want to—I want to defer on that if I were, you know—how we get it past the border, it is going to take the involvement of multilateral groups and support from some elements, either of the U.N. or, OAS.

Unfortunately, Latin America does not have anything like the African Union. Something like that would be particularly helpful at

a time like this. So forming some form of coalition and with supervision with the ICRC is really what is needed.

Mr. TRONE. Any other ideas? That is the key.

Ms. CHAVEZ. One idea I think is to push the U.N. to—ask the U.N. to push Maduro to recognize what is going on in his country, and to accept aid, and for the U.N. to play a greater role in this particular issue.

Mr. TRONE. OK. Thank you all. You guys have been fantastic. We really appreciate the briefing and look forward to keeping moving and trying to help Venezuela. Thank you. The hearing is adjourned.

[Whereupon, at 6:06 p.m., the committee was adjourned.]

APPENDIX

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

Eliot L. Engel (D-NY), Chairman

March 13, 2019

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Committee on Foreign Affairs to be held in Room 2172 of the Rayburn House Office Building (and available live on the Committee website at https://foreignaffairs.house.gov/):

DATE: Wednesday, March 13, 2019

TIME: 4:00 p.m.

SUBJECT: Hearing on H.R. 1004, Prohibiting Unauthorized Military Action in Venezuela Act

WITNESSES:

Panel I
The Honorable David Cicilline
Member of Congress (D-RI)

Panel II
Rebecca Bill Chavez, Ph.D.
Non-Resident Senior Fellow
Inter-American Dialogue
(Former Deputy Assistant Secretary of Defense for Western Hemisphere Affairs)

Ms. Deborah Pearlstein
Professor of Law and Co-Director
Floersheimer Center for Constitutional Democracy
Benjamin N. Cardozo School of Law
Yeshiva University

Vanessa Neumann, Ph.D.
President
Asymmetrica

By Direction of the Chairman

The Committee on Foreign Affairs seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202/225-5021 at least four business days in advance of the event, whenever practicable. Questions with regard to special accommodations in general (including availability of Committee materials in alternative formats and assistive listening devices) may be directed to the Committee.

COMMITTEE ON FOREIGN AFFAIRS
MINUTES OF FULL COMMITTEE HEARING

Day *Wednesday* Date *03/13/19* Room *2172 RHOB*

Starting Time *4:05 p.m.* Ending Time *6:06 p.m.*

Recesses *0* (____to____) (____to____) (____to____) (____to____) (____to____) (____to____)

Presiding Member(s)
Chairman Eliot L. Engel, Rep. David Cicilline, Rep. Adriano Espaillat, Rep. David Trone

Check all of the following that apply:

Open Session ☑
Executive (closed) Session ☐
Televised ☑

Electronically Recorded (taped) ☑
Stenographic Record ☑

TITLE OF HEARING:
Hearing on H.R. 1004, Prohibiting Unauthorized Military Action in Venezuela Act

COMMITTEE MEMBERS PRESENT:
See attached.

NON-COMMITTEE MEMBERS PRESENT:
N/A

HEARING WITNESSES: Same as meeting notice attached? Yes ☑ **No** ☐
(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: *(List any statements submitted for the record.)*
N/A

TIME SCHEDULED TO RECONVENE _____
or
TIME ADJOURNED *6:06 p.m.*

Full Committee Hearing Coordinator

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