

The New York Times

November 28, 2012

American Held in Cuba Takes Aim at Impasse

By DAMIEN CAVE

MEXICO CITY — The Cuban government says he is perfectly fine. His lawyers say he could soon die of cancer. After nearly three years, the drama of Alan Gross, an American contractor [imprisoned in Cuba nearly three years ago](#), has come down to this: a battle over a bulge of tissue on his shoulder.

Cuba's Foreign Ministry issued a statement Wednesday asserting that Mr. Gross was healthier than his lawyers claimed, and that a biopsy had shown that a growth on his shoulder was not cancerous, as his legal team has suggested.

In response, a lawyer for Mr. Gross, Jared Genser, issued a statement declaring that a full examination by an independent doctor would be the best way to determine whether Mr. Gross was cancer free.

The dueling statements came as Mr. Gross's family has intensified its campaign to win his release, through public rallies, a campaign in the United Nations accusing Cuba of human rights violations, and a lawsuit against the United States government.

And while the sparring over Mr. Gross's health pushed his case back into the public eye — State Department officials called again for his release on Wednesday — it also revealed that the larger dispute over his detention and his work in Cuba is far from being resolved.

Both Cuba and the United States have resisted efforts to negotiate. Each has blamed the other side while holding firm to its own position.

"They are like a divorced couple who cannot talk civilly with one another, or refuse to do so for fear of recognizing one another's legitimacy or point of view," said [Ted Henken](#), a Latin American studies professor at Baruch College.

Judy Gross, Mr. Gross's wife, said the lack of meaningful negotiations led to the family's more aggressive strategy. "I don't like to shame people, but if that's what it's going to take, that's what we need to do," she said in an interview. And while she said that Cuba deserved much of the blame, as "a brutal Communist government," the United States also deserved to be held accountable.

The lawsuit filed by Mr. and Mrs. Gross on Nov. 16 in federal court in Washington seeks up to \$60 million from the United States and DAI, the contractor that hired Mr. Gross to go to Cuba in 2009 as part of a State Department program delivering satellite Internet equipment to Jewish groups. It accuses his employers of sending him on five

semicovert trips to Cuba without proper training, protection or even a clear sense of the Cuban laws that led to his detention.

Scott Gilbert, a member of the Grosses' legal team, said the lawsuit could be especially damaging for the State Department and DAI if the discovery process produces more examples of unqualified and ill-prepared contractors sent to Cuba. He said the lawsuit would, at the very least, draw more scrutiny to the American government's pro-democracy effort.

The program was authorized in 1996 by the Helms-Burton Act, which tightened the Cuban trade embargo and allowed for money to be set aside for “democracy building efforts” that might hasten the fall of Fidel and Raúl Castro.

Soon after that, Cuba made collaboration with the program illegal, but it continued and grew.

President Obama inherited its \$20 million budget when he took office. After Mr. Gross was detained on Dec. 3, 2009 — charged with subversive acts, and later [sentenced to 15 years in prison](#) — administration officials sought to reduce financing and alter elements of the programs. But the president's efforts were rebuffed by Cuban-American lawmakers, including Senator Robert Menendez, Democrat of New Jersey, who said in an interview that he had always opposed cuts to the program.

State Department officials declined to comment on the lawsuit, which indicated that Mr. Gross became more worried about his work with each trip. After his first visit working with DAI in the spring of 2009, he wrote a memo that said the group he met with “has specific concerns about government informants and the highest level of discretion is warranted.” By his third trip in June, he had become more blunt, writing to DAI that “this is very risky business in no uncertain terms.”

The lawsuit argues that these memos should have been enough to prompt additional training for Mr. Gross, or a new approach. Instead, the complaint says, DAI and the American government “failed to take any action to protect Mr. Gross.”

In a statement, DAI refused to comment on whether it had adequately informed Mr. Gross of the risks that came with his work in Cuba. “As much as we would like to address the numerous disagreements we have with the content of the complaint, the fact is that doing so will not advance the cause of bringing Alan home, which remains our highest priority,” the company said in a statement.

[Robert Pastor](#), a former Latin America adviser to President Jimmy Carter who is an international relations professor at American University, called the standoff “an accident waiting to happen.”

Mrs. Gross said she had been stunned not just by how poorly her husband had been trained, but also by the government's lack of effort on his behalf. “I had faith in my government and my State Department,” she said. “Of

course they are going to do something about this right away. Of course they are going to get him out right away. That idealism didn't last."

Mrs. Gross said she understood that American officials are frustrated with the Cubans, and that "part of me thinks you don't reward a country for holding a hostage" — the position favored by Cuban-American lawmakers in Congress. But she said she had also concluded that these same hard-liners had become a major hindrance to her husband's release.

"He is a pawn of these very radical right-wing Cuba haters, for lack of a better word, who don't want to see any changes happen, even to get Alan home," she said.

Mr. Menendez said criticism should be focused on Cuba, which has "arrested an American who should not have been arrested in the first place." But when asked if he would support any change in Cuba policy — including cuts to the Cuba democracy program — if it meant getting Mr. Gross released, he said, "I'm not into negotiating for someone who is clearly a hostage of the Cuban regime."

Mr. Genser, the lawyer, said he was urging White House officials to satisfy their responsibility to Mr. Gross, despite the potential political cost.

"Alan Gross is a U.S. government contractor sent to do a job by the United States," he said. "If we can negotiate the release of people in Iran, Burma and North Korea, surely we can find a way to get someone released from Cuba."