

**COUNTRY REPORTS ON HUMAN RIGHTS
PRACTICES FOR 1998**

HEARING
BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL OPERATIONS AND HUMAN RIGHTS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTH CONGRESS

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COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1998

FRIDAY, FEBRUARY 26, 1999

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND
HUMAN RIGHTS,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 12:04 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (chairman of the Subcommittee) presiding.

Mr. SMITH. The Subcommittee will come to order. I am very pleased to convene this hearing of the Subcommittee on International Operations and Human Rights.

Our distinguished witnesses here include our new Assistant Secretary for Democracy, Human Rights and Labor, Harold Koh, and the representatives of four leading human rights organizations.

I am very pleased to have Harold Koh here and, as a matter of fact, I will formally introduce him to the Subcommittee in a moment but first, I would like to say, from a very personal and professional point of view, I have the highest respect for you, Secretary Koh. You have a heart for human rights. You have lived it. You have worked it. You understand the issues. I think you are indeed one of the brightest lights within the Administration and I know that Members on both sides of the aisle look forward to your leadership in making human rights really matter in the coming years. So we are grateful to have you where you are and congratulations on your position.

Mr. KOH. Thank you.

Mr. SMITH. This year's "Country Reports on Human Rights Practices," [hereafter referred to as "Country Reports"] delivered by the State Department to Congress late last night, tells the story of another bad year for human rights around the world. The totalitarian governments of China, Vietnam, and Cuba all intensified their persecution of political and religious dissidents. In fact, according to a Reuters wire report this morning, Cuba plans to try four of that island's best known dissidents on Monday. Vladimiro Roca, Martha Beatriz Roque, Felix Bonne, and Rene Gomez Manzano have been detained on sedition charges for the past 19 months. Their crime: calling for Democratic changes to Cuba's one-party Communist system. As we know, women in China continue to be subjected to forced abortions and forced sterilizations. The unlawful military dictatorship in Burma continues to persecute the people who won the country's only free and fair election 10 years ago, and the re-

gime in Sudan continues to kill and enslave people because of their race and religion. Persecution, harassment, and discrimination against religious believers continue, not only in Communist countries but also in South Asia, the Middle East, the former Soviet Union and even Western Europe. Even the few bright spots, such as the prospect of democracy for Indonesia and Nigeria, had more to do with new hope and expectation than with established fact.

I am happy to say that on a preliminary first reading, this year's Country Reports seems to state more hard facts and to pull many fewer punches than last year's reports. I do hope, however, that Secretary Koh will address what appear to be some of the inconsistencies, omissions, and unanswered questions.

First, whenever we talk about human rights today and especially when we talk about the danger of tolerating human rights violations in the interest of achieving some other goal, we always seem to end up talking about China. This year is no exception. Much of this year's China report is very detailed and it paints a grim picture. Like last year's report, however, this one contains a number of irrelevant and gratuitous statements about the difficult tasks facing the Chinese Government, the progress being made in the expansion of the Chinese economy and so forth. Wei Jingsheng stated at last year's hearing that the China report attempted to "beautify the Chinese Communists." This year's report eliminates or at least softens some of the exculpatory statements in last year's report, but others remain. For instance, the opening paragraph this year contains a reference to a continued improvement in living standards of most of China's 1.2 billion citizens. What does this have to do with whether the Chinese-Beijing regime is a gross violator of human rights? The reference to economic progress in a human rights document is an unfortunate echo of the defense offered by the dictatorships everywhere of their own abuses: that they must be weighed against the regime's claimed achievements and that a few eggs must be broken in order to build the omelet of prosperity and public order.

Another way in which bad conduct can be made to look less bad is to use the failures of the policy such as the inability of the Chinese Government to extend its brutal "one child per couple" policy into the remotest regions of rural Tibet or the fact that the "unofficial" Catholic and Protestant churches in China attract more and more adherents every year as evidence that the policies themselves are not as bad as they might be. But, of course, we know those people do pay a price for going into the underground church.

But the worst evasion of all is to accept at face value the empty declarations of the violators themselves or to juxtapose these declarations with hard evidence in a way that seems to imply that both are entitled to equal dignity. I am particularly disappointed to read the following statement in the discussion of coercive family planning practices in China. And I quote:

"Government policy, prohibits the use of force to compel persons to submit to abortion or sterilization."

This is simply not true. Of course the Chinese Government officially claims to oppose coercion. They have been doing it since 1979 when they crafted the "one child per couple" policy and during the 1980's and the 1990's when the evidence mounted to the point

where it was inescapable that it was coming right from the top. They do it, just as the Soviet Union always claimed to support free speech or free religion or democracy. I will never forget in the early 1980's, in my first trips to the Soviet Union and in meetings with Kremlin officials, they would always drag out their constitution and say, "See, we have all the rights that you have." Of course it was a paper promise and it wasn't worth the paper that it was printed on. But before repeating such a self-serving claim as real evidence of what government policy really is, I believe we should insist on some evidence. In the case of forced abortions in China, the evidence is clear: Local and regional officials are liable to be severely punished if the number of babies born in their jurisdictions exceed the assigned quota. There is no evidence, on the other hand, that any such official has ever been punished for forcing women to have abortions or to be sterilized, and again these are crimes against humanity and were so recognized at the Nuremburg Tribunal after the Second World War.

Which is the real government policy: To oppose coercion even if it means exceeding the quota, or to meet the quota even if it means having forced abortion? The answer is obvious and the report somehow manages to get it wrong.

There are similar problems on the report on Vietnam. Once again the report grossly understates the extent and nature of discrimination, harassment and persecution of asylum seekers who have been forcibly returned under the comprehensive plan of action. It even contains the inflexible assertion that all of the people who were forcibly repatriated were convicted criminals. This again is not true. We forcibly repatriated Buddhist monks, Catholic nuns, anti-Communist poets and war heroes, and lots of them are in deep trouble now that they are back in Vietnam. Secretary Koh, I know that these reports are not the product of any one bureau and I strongly suspect this error was a contribution by some zealous bureaucrat from elsewhere in the State Department. I hope it can be corrected, and I also hope you will have some influence in making the Department kinder and gentler toward refugees and asylum seekers.

I do want to point out there are many, many places in which the Country Reports get it exactly right, even when getting it right might be diplomatically awkward. For instance, the report on the United Kingdom is once again dominated by abuses specific to Northern Ireland. It gives the government credit for agreeing to a new investigation of the Bloody Sunday massacre but notes that the government still refuses to investigate the killing of defense lawyer Patrick Finucane. As you know, Mr. Secretary, we have had Michael Finucane, his son, come and give compelling testimony about the duplicity of the RUC and others in that killing, or at least the thought that that may have happened. There at least has to be thorough and exhaustive investigation so that case can be cleared up. It also makes clear that the Royal Ulster Constabulary, the RUC, is still using plastic bullets in Northern Ireland even though they are illegal elsewhere in the United Kingdom. I have long maintained that human rights must be central in the peace process in Northern Ireland and our Subcommittee, as you know, has had three hearings and one trip to Northern Ireland as part

of an effort to gather more facts, and I hope that this report will be a wake-up call to the Government of the United Kingdom and all other parties to the peace process that although much progress has been made, much remains to be done.

On the whole, the State Department's Bureau of Democracy, Human Rights, and Labor has done an excellent job on this year's reports. If U.S. policy is to promote American values and universally recognized human rights, we need to start by stating the facts honestly in the context of those values. Frankly, I believe the reports would be even better if the Department would give the Human Rights Bureau more respect and more resources. The Department has not yet given us the bureau-by-bureau breakdown for the fiscal year 2000 budget request but I strongly suspect it will be no different than last year's budget in which the Human Rights Bureau is grossly undervalued compared to bureaus charged with advancing other concerns. The Bureau is smaller than the State Department's Public Affairs Office, smaller than the Protocol Office, and far smaller than the regional bureaus. Last year the Bureau's budget was about two one-thousandths, that is, one-fifth of 1 percent of the State Department's budget. That means there are far fewer people whose principal task is human rights protection than there are who are primarily concerned with trade promotion, immigration enforcement, or just generally fostering good relations with whatever regime happens to be around, and that each of those human rights defenders has far fewer resources for travel, computers, support and everything else that is necessary to get the job done. In previous years, we have asked the Department to correct this gross disparity through administrative action. Perhaps it is time for a legislative solution to the problem. We need better resources to allocate so that the foreign policy in the United States does reflect our human rights concerns more adequately because there are enough people doing the job.

Secretary Koh, before I ask you to make your presentation, I would like to ask my good friend and colleague, the Ranking Member of our Subcommittee, Cynthia McKinney, if she would like to make an opening statement.

Ms. MCKINNEY. Thank you, Mr. Chairman. I would just like to say I appreciate the comments that you have made, about 99 percent of which I agree and I look forward to a very good working session as we begin our new opportunities to serve with you on this Subcommittee as the Ranking Member.

I would just like to welcome our panelists who have come here this morning and say that I am very anxious to receive your testimony and you know that my particular concern is around the hot spots in Africa, and I would hope that in your presentation you would highlight some of those areas for us. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much. Ms. McKinney. I would like to ask Mr. Delahunt, the gentleman from Massachusetts, if he has an opening statement.

Mr. DELAHUNT. I don't have an opening statement, Mr. Chairman. As you know I am new to this Subcommittee, and eagerly await the testimony from the Secretary. I should also note that his learned brother is doing a fine job as Director of Public Health in

the Commonwealth of Massachusetts. So, Mr. Secretary, welcome and I look forward to your testimony. I also look forward to working with you and the Ranking Member, Ms. McKinney.

Mr. SMITH. Thank you, Mr. Delahunt. The Chair recognizes my good friend and colleague from California, the former Ranking Member of the Subcommittee, who is now over at the Subcommittee on Asia and the Pacific, Mr. Lantos.

Mr. LANTOS. That is very kind of you, Mr. Chairman. I merely came as a former Ranking Member and former Chairman of this Subcommittee—and I suspect in a couple of years we may have some new chairmen of all subcommittees—to pay my respects to the distinguished witness, Secretary Koh. In the very short period of time he has occupied this position, he has demonstrated his passionate and deep commitment to human rights, and as the Co-chairman of the Congressional Human Rights Caucus, I look forward to the pleasure of working with him.

I do have one item, if I may, Mr. Chairman. Yesterday in the Asia Subcommittee, we unanimously approved a resolution, which I take it is similar to the one unanimously approved by our colleagues in the Senate concerning our position with respect to China at the upcoming Geneva meeting. I merely would like to suggest with great respect, Mr. Secretary, that the Congress is united in its outrage with respect to China's continued violation of human rights and I think it would be unconscionable for our Administration not to take the lead in denouncing Chinese human rights violations at the upcoming meeting in Geneva.

As you know, I am a strong supporter of this Administration on most issues, but I will be in the forefront of those who are critical of the Administration unless the Administration changes its policy of last year and takes the lead in denouncing China's human rights violations at the upcoming meeting.

I understand all of the other issues that we deal with as far as China is concerned, from North Korea to proliferation of weapons of mass destruction, and that they have nothing to do with China's human rights record. I would like to make a strong request to you that you carry the message to Secretary Albright and the President that the Congress is determined to call a spade a spade, and China's preposterous continuing violations of human rights are unacceptable both to the Congress and to the American people. Thank you very much, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Lantos. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Mr. Chairman, I just want to echo the sentiments expressed earlier by my good friend, the gentleman from California. As a Member of the Asia and the Pacific Subcommittee on International Relations, I do feel very much the same way. I don't have a prepared statement but I do look forward to hearing from our good friend, Assistant Secretary Koh, this morning. Thank you, Mr. Chairman.

Mr. SMITH. I thank my friend. Before introducing the Secretary, I would just like to say to Mr. Lantos that I didn't know he had such an interest in the Boehner rule, the 3-term rotation on the Republican side of chairmanships, when he talked about changing hands.

[Laughter.]

Mr. SMITH. I would like to introduce and welcome for the first time before our Subcommittee, a very distinguished man, Harold Koh, who was appointed as Assistant Secretary of State for Democracy, Human Rights, and Labor last year. Before that appointment, Mr. Koh served as a professor of international law and as a director of the Center for International Human Rights at Yale Law School. Assistant Secretary Koh has earned both his B.A. and law degrees from Harvard University, has authored numerous articles on international law and human rights, and again comes with real credentials to the job. We know he will speak forcefully and with a great deal of understanding about human rights, and I yield the floor to the gentleman.

STATEMENT OF HAROLD HONGJU KOH, ASSISTANT SECRETARY OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, DEPARTMENT OF STATE

Mr. KOH. Thank you, Mr. Chairman, and Members of the Committee. Today's hearing marks the first time that I have had the honor to present to the Congress the annual "Country Reports on Human Rights Practices." I submit these 1998 reports proudly and in accordance with the prime statutory responsibility that is given by the Foreign Assistance Act to the State Department's Bureau of Democracy, Human Rights, and Labor which I have had the privilege of leading since November.

Shortly before these reports were first issued in 1977, President Carter gave their rationale in his inaugural address. He said, "Because we are free, we can never be indifferent to the fate of freedom elsewhere."

The goal of these reports is simple: to tell the truth about human rights conditions around the world. We aim to create a comprehensive, permanent, and accurate record of human rights conditions worldwide in calendar year 1998. These reports form the heart of U.S. human rights policy. They provide the Federal Government as well as nongovernmental entities, foreign governments, and intergovernmental organization with the official human rights information base upon which policy judgments are made. They are designed to provide all three branches of the Federal Government with an authoritative, factual basis for making decisions relating to foreign aid allocations, diplomatic initiatives, asylum decisions, training and a host of other official decisions. I have studied and used these reports long before I entered the government, and I have been struck by their development and their comprehensiveness and accuracy during the 22 years since the first reports issued.

The first report ran only 137 pages and covered only 82 countries: those which were receiving U.S. foreign aid. The volumes that we submit to you today represent the largest ever. They cover 194 countries and total more than 5,000 pages in typescript. This year, thanks to the astonishing and expanding power of the Internet, we expect the report to be even more widely and quickly disseminated. When last year's report was placed on the World Wide Web, over 100,000 people read or downloaded parts of it in the first few hours of the first day of publication. Now these reports represent the yearly output of a massive official monitoring effort that

involves hundreds of individuals, including human rights officers from each of our embassies, country desk officers from regional and functional bureaus, officials from other governmental agencies, and a host of foreign sources.

Let me underscore a point which is sometimes forgotten. Even the act of compiling this information can be dangerous to human rights defenders and embassy officials around the world who take great risks to acquire and communicate to us the truth about governmental abuses. This is my first year to be directly involved in this mammoth undertaking. Having seen this process from the inside, I can personally attest to the countless hours of hard work that go into making this report a reality.

Let me pay tribute to Secretary Albright, who has a deep and sincere commitment to human rights and under whose leadership the coverage of these reports has greatly expanded to include broader coverage of such issues as workers' rights, women's rights, the rights of the disabled, and religious freedom.

Let me also thank the hundreds of State Department officers who worked on these reports and to many outside the Department, including from here on the Hill, who provided necessary information for this endeavor. I must pay special tribute to the splendid and dedicated Country Reports team in my own Bureau, the State Department's Bureau of Democracy, Human Rights and Labor, and especially its talented and committed director, Marc Susser, who is with me here today, for bringing the 1998 report to fruition with such care and integrity.

Most important, we thank this Committee and especially you, Mr. Chairman, for your time and attention to the release of this report. In particular, our efforts have been aided this year by a change in the due date for the submission of the report to Congress, which has taken into account the amount of time and effort to put this together at the start of a new year. We greatly appreciate your effort to secure the additional time, and hope the extension will be enacted permanently. Having now assumed this post with a pledge to work closely with you on the shared goal of promoting respect for human rights, we welcome and admire your bipartisan support for human rights efforts.

Let me turn to the year that has just passed. A report of this magnitude cannot be easily summarized. And I know that you want to ask questions about particular countries of interest. But let me highlight four focal points of the introduction of the report: democracy, human rights, religious freedom, and labor.

First, democracy. What makes this year special, Mr. Chairman, is that 50 years have now passed since the Universal Declaration of Human Rights first proclaimed that all persons, all human beings, are "free and equal in dignity and rights." As Secretary Albright recently noted, the intervening years have taught us that "democratic governance is not an experiment; it is a right," she said, "accorded to all people under the Universal Declaration of Human Rights," particularly Article 21.

Yet, although Article 21 of the Declaration provides that "the will of the people shall be the basis of the authority of government expressed in periodic and genuine elections," too many governments continue to deny their citizens the right to democracy: the basic

right to choose their own government. As our reports chronicle, in too many countries leaders speak of democracy, yet rig elections, suppress political dissent, and shackle the press.

As our reports make clear, the right to democratic governance is both a means and an end in the struggle for human rights. Freedom of conscience, expression, religion, and association are all bolstered where democratic rights are guaranteed. Authoritarian regimes may for a time generate prosperity, but they cannot sustain it in the face of corruption, cronyism and the continued denial of human rights.

Here we can contrast Indonesia, where just last year a Suharto regime that lacked both accountability and transparency saw an economic downturn quickly deteriorate into political crisis, with the Republic of Korea, where genuinely democratic elections gave the new President Kim Dae Jung, a former political prisoner, the popular support he needed to implement austerity measures and economic reform. For me, an Asian American, these events confirm yet again that Asian values are totally consistent with respect for democracy, human rights, and the rule of law.

Since the Berlin Wall fell, the number of democracies worldwide has nearly doubled; by one measure, growing from 66 to 117 in less than 10 years. But at the same time, some traditionally repressive governments such as China and Cuba, which the Chairman mentioned, have granted their citizens greater individual authority over economic decisionmaking, but without accompanying relaxation of controls over peaceful political activity. What this shows is that economic freedom cannot compensate for the lack of political freedom. A right to democracy necessarily includes a right to democratic dissent; the right to participate in political life and to advocate the change of government by peaceful means.

It is the policy of our government to support democracies over the long haul and to foster the growth of democratic cultures, and so we focus particularly on providing support for countries in transition, defending democracies under attack, and strengthening the network of established democracies. We do so not just because it is right; but because it is necessary.

History shows that democracies are less likely to fight one another and more likely to cooperate on security issues, economic matters, and legal initiatives. Our security depends upon expansion of democracy worldwide, without which repression, corruption, and instability can engulf entire countries and even regions.

We have seen this happen just in the last year, in which the widespread abuse of civilians trapped in conflict, particularly in countries facing internal insurgencies or civil war, was a disturbing trend. Our reports chronicle in detail countries in which insurgent movements and government forces worldwide resorted to murder, rape, and other human rights abuses and crimes against humanity. Tens of thousands of men, women, and children died not only because of conflict but also from premeditated campaigns designed to wreak havoc on civilian populations.

How should the United States promote democracy if this is our core goal? Let me suggest three ways:

First, we must support a free and independent media as part of civil society. Democracy depends not just on unfettered minds, but

on informed electorates. If a government can control information or limit press freedom, it can preordain elections, stunt civil society, and manipulate the judiciary.

Second, we must support the equal participation of all citizens in domestic democratic life, for democracy does not mean the tyranny of the majority. Governments that choose to ignore or repress the rights of individuals because of their race, sex, religion, disability, language, or social status not only undermine the principle of democracy but also risk violence and separatism.

To see this, we need to look no further than the situation facing women in Afghanistan, perhaps the most severe abuse of women's human rights in the world today. The Taliban's blatant abuse of women, which is detailed in our Afghanistan report, included public beatings, devastating disregard for the physical and psychological health of women and girls, drastically limited access to medical services and hospitals, and severe cutbacks on access to education.

Third, 1998 confirmed that democracy means far more than just elections. As Secretary Albright has noted, "democracy must emerge from the desire of individuals to participate in the decisions that shape their lives...."

"Unlike dictatorship, democracy is never an imposition. It is always a choice." The slow development of democracy in some newly independent states in the past year demonstrated that elections should be regarded not as an end in themselves but as a means by which to establish a political system and culture that fosters the growth and self-fulfillment of its citizens by promoting and protecting their political and civil rights..

Two other important themes run through these Country Reports. First, Article 18 of the Universal Declaration protects everyone's "right to freedom of thought, conscience, and religion," thereby recognizing that religious freedom as well as the universally recognized human rights are an essential component of democratic culture. Nearly all States acknowledge this principle but, as these reports demonstrate, in too many countries, governments refuse to respect this fundamental right, discriminating against, restricting, persecuting or even killing those whose faith differs from that of the majority of the population.

To address these problems, last year Congress passed and the President signed the International Religious Freedom Act, which created an Office of International Religious Freedom now housed in our Bureau. Although that law mandates a parallel set of "Country Reports on International Religious Freedom" that will be submitted on September 1, 1999, the reports we submit today also extensively document abuses of religious freedom worldwide.

A second important theme Article 23 of the Universal Declaration states is that "everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment." Free trade unions around the world have played a critical role in promoting and defending democracy in the cold war era. But as our reports illustrate, numerous States still interfere with these worker rights to associate, work, and unionize, and too many countries authorize or condone exploitative labor practices. To redress such practices, as Secretary

Albright recently noted, the U.S. Government is now "working through the International Labor Organization to raise core worker standards and to conclude a treaty that would ban abusive child labor anywhere in the world."

These, Mr. Chairman and Members of the Committee, are the key themes of our 1998 reports: democracy, human rights, religious freedom, and labor. The introduction to the reports contains our detailed assessment of how these themes played out in particular countries. Let me caution that we consider it imperative to focus public attention on violations of internationally recognized human rights standards wherever and whenever they occur, and for that reason we resist repeated requests to rank countries as human rights violators from the "best" to the "worst." During the question period, I would be happy to discuss any individual country in detail, but because time is short, let me touch on a number of countries in which the Committee Members have already expressed especially keen interest.

In China, the government's human rights record deteriorated sharply at the end of 1998 with a crackdown against organized political dissent. The loosening of restrictions on political debate and activism by authorities for much of 1997 and 1998, including public calls for political reform and expressions of opposition to government policies, abruptly ended this past fall. Dozens of political activists were detained for attempts to register a political party. Three prominent leaders were given harsh sentences in closed trials that flagrantly violated due process.

The government also took steps to strengthen control over both print and broadcast media and increased monitoring of the Internet. In addition, authorities banned a popular but politically sensitive book series and other publications, closed several newspapers, fired editors and writers, prevented attempts to organize workers, and promulgated new restrictive regulations on social organizations. Coercion in family planning practices, including instances of forced abortion and sterilization continued. These developments overshadowed the government's October signature of the International Covenant on Civil and Political Rights. Unapproved religious groups in China, including Protestants and Catholics, continued to experience degrees of official interference and repression that varied from region to region and locality to locality. In some areas, authorities, guided by national policy, made strong efforts to control the activities of unapproved churches: religious services were broken up, and church leaders or adherents were detained and, at times, reportedly beaten. At year's end, some remained in prison because of their religious activities, while in other areas registered and unregistered churches were treated similarly.

In Tibet and Xinjiang, the government intensified controls on religious practices and fundamental freedom and moved to suppress religious manifestations that advocate independence or any expression of "separatism." The government renewed its rhetorical campaign against the Dalai Lama, and stepped up a reeducation campaign aimed at monks and nuns. There are reports of imprisonment and abuse or torture of monks and nuns, the death of prisoners, and the closure of several monasteries. Despite repeated international expressions of concern about the welfare and where-

abouts of the boy designated by the Dalai Lama as the Panchen Lama, including my own requests at our recently concluded human rights dialog, the Chinese Government refused access to him by international observers.

In Cuba, despite the Pope's visit early in 1998, the Government of Fidel Castro continued to exercise control over all aspects of Cuban life and again to suppress ruthlessly all forms of political dissent. Authorities routinely engage in arbitrary detention of human rights activists and independent journalists, subjecting them to interrogations, threats, and degrading treatment. Nineteen months have passed since the Cuban Government imprisoned the four founders of the Internal Dissidents Working Group, who the Chair has mentioned for non-violently exercising their rights to freedom of expression and association. And as you have noted, Mr. Chairman, now, months later, having been charged with sedition, they are finally being brought to trial.

In Serbia, the human rights situation also deteriorated sharply. As you well know from Secretary Albright's testimony yesterday, the regime of Yugoslav Federal President Slobodan Milosevic used the military, police, judiciary and state-controlled media to strangle dissent throughout Serbia and to promote support for a brutal crackdown on civilians and separatist insurgence in Kosovo. Serbian police and military forces committed widespread abuses against Kosovo's ethnic Albanian population, including massacres of unarmed civilians, the torching and looting of homes, arbitrary arrests, torture, brutal beatings, and detention. By year's end, the violence in Kosovo had left about 2,000 people dead—the vast majority of them unarmed ethnic Albanian civilians—displaced close to 180,000 individuals, and triggered the worst regional political and military crisis in Europe since the end of the conflict in Bosnia-Herzegovina. Albanian insurgents in the Kosovo Liberation Army also committed abuses against Serbs who, while a majority in Serbia, represent a minority in Kosovo.

The Ranking Member has mentioned Africa, and here I must mention Sierra Leone where rebel forces killed and maimed with extraordinary cruelty. While retreating from Freetown to the interior, the rebels left behind a trail of murder, mutilation, rape, abduction, and destruction. The insurgents decapitated, burned alive, and inflicted bullet and machete wounds; and, particularly appalling as we have all seen, the amputation of the ears, noses, hands, arms, and legs of civilians, including small children and the elderly; many of the small children being abducted, tortured and conscripted into rebel forces and forced to participate in a new set of atrocities.

The conscription of children—again something we have also seen and we can discuss—in the tragedies in the northern parts of Uganda.

In Indonesia, the news was not entirely bad. The government's human rights performance improved after the resignation of President Suharto, with the Habibie Government's endorsement of broader press freedom, the release of some political prisoners and the opening of the door for elections this spring. We remain deeply concerned however, by high levels of violence, intercommunal conflict, the shooting of peaceful demonstrators by security forces and

the terrible attacks on Sino-Indonesians, and especially the rapes of ethnic Chinese women and girls during the May riots. The government has not, to our judgment, thoroughly investigated these abuses, or consistently held perpetrators accountable. We are fully committed to supporting Indonesia's transition to democratic governance, a transition that our Administration has identified as a highest priority.

And finally in Nigeria, after the June death of General Sani Abacha and his succession by General Abubakar, the government launched a program to restore democracy by May of this year. Over the second half of 1998, the government released political prisoners, allowed independent political parties to form, and permitted independent journalists greater freedom. In August, the government scheduled local, state, national and Presidential elections between early December and late February of this year. Although marred by scattered violence and local irregularities, the December elections for local officials were generally free, fair, and open. We congratulate the Nigerian people on the peaceful conduct of last Saturday's national legislative elections, the third of four polls scheduled for the transition to civilian rule, and we join the people of Nigeria in hoping this series of elections can pave the way to a democratic civilian government that firmly protects and promotes human rights.

Mr. Chairman and Members of the Committee, the Universal Declaration promised a world where "all human beings are born free and equal in dignity and rights." Yet, as even this brief survey demonstrates, half a century later, the world still has a long way to go to fulfill this promise. The year just past confirmed that the best path to accomplish this goal remains the establishment of democratic governments. The right to democracy thus stands both as a right in itself and an essential means to guarantee universal human rights principles.

In the past 10 years alone, the number of electoral democracies in the world has almost doubled. As Vice President Gore recently said, "History has taught us that freedom—economic, political and religious freedom—unlocks a higher fraction of the human potential than any other way of organizing society." The past year confirmed that democratic governance, human rights, religious freedom, and labor freedom remain inextricably intertwined with prosperity and security.

Mr. Chairman, thank you. I now stand ready to answer any questions you and the Members of your Committee may have.

[The prepared statement of Mr. Koh appears in the appendix.]

Mr. SMITH. Thank you very much, Secretary Koh, for that very comprehensive statement, and your full statement will be made part of the record, without objection. I have a number of questions and I know my colleagues will have a number of questions. And I will submit a number for the record as well, because all of us have not gotten through the entire report yet and, as a matter of fact, it will probably take the better part of a week to read it all. But it will become the basis for evaluating other countries.

Our Subcommittee, as I think you know, over the last 4 years has had numerous hearings on most of the trouble spot countries of the world. We had the first-ever hearings on Northern Ireland.

We had three of those. We had them on Indonesia. We heard from political prisoners, including Pius Lustrilanang and others who have been tortured, presumably by KOPASSUS, but we don't know that for certain. So the reports do become a very important part of establishing the record and are certainly bolstered significantly by the unfettered reporting we get from the human rights organizations as well. Thank you again for your fine statement.

I have a number of questions, one Mr. Lantos mentioned just a moment ago, and we have legislation in our Subcommittee as well. The Senate yesterday passed a resolution. We have had two hearings on China so far this year, in which time we heard from members of the Chinese Democratic Party who talked about the crack-down. We heard extensive testimony of this brutal crackdown on those who have the audacity to say they want freedom in China, and yet the early indications were that there would be no resolution at the U.N. Commission on Human Rights in Geneva. We hope that has changed. We believe it may be in the process of changing. But if there is going to be such a resolution, obviously it has to be done very aggressively and with the will and the intent to win.

We know the Chinese Government will pull every punch, use their own foreign aid with developing countries, who are part of the delegations that will make the decisions in Geneva, to dissuade them from going forward with the resolution. And as a matter of fact, if last year is the harbinger of what will happen soon, we are talking about an attempt to just table it, and that is assuming there will be a resolution.

So hopefully you will speak to that issue as well, because we are all hoping there will be a full court press. When President Clinton, I believe unwisely, separated Most Favored Nation status from human rights, he said that we would use international fora, including the U.N. Commission, as areas to prosecute the cause of human rights in China. And yet it looks like the Administration's half-hearted effort is maybe worse than no effort at all. So my hope is that if we do do it, we do it wholeheartedly, making every effort to win.

And while I will yield to you for an answer, looking at the report, I also wanted to raise some wording or verbiage that continues to be disturbing. It says that the PRC is an "authoritarian government;" Cuba is a "totalitarian government." Last year I and others raised and others raised concerns that somehow that authoritarian label softens the view that somehow China is not the dictatorship that it indeed is. It certainly is a strong country, a powerful country, and we love its people, but its government is a dictatorship. Similarly, as I said in my opening remarks, I am also concerned about giving undue deference to Chinese official statements against coercion and population control.

Michael Weiskopf, the former Bureau Chief of *The Washington Post*, did an incisive 3-part report, I believe it was in 1985, and pointed out that publicly the government says coercion is not part of what they do. They always dupe unwitting international observers into saying, "Well, it is not the national government." That the abuses are somehow some deviation at the lower level. That is not the case. We heard from Mrs. Gao, right where you are sitting, a woman who ran the so-called Planned Birth Clinic in Fujian Prov-

ince, who stood there and told us, as you know—because I know you are very well acquainted with the case and care about it—about how she was a monster by day, a wife and mother by night; how they use holding cells in their population control family planning center, until the coercion works; that they do use forced abortion, and that the instructions came right from the top. We have heard that.

Our China watchers, our demographic experts, have all concluded that it would be unthinkable to conclude that this is anything other than driven from the top down. This is not top driven. This is not some deviation done at the local level. And that is troubling when that kind of information gets into the report, which again otherwise had so many fine aspects to it.

Mr. Secretary Koh.

Mr. KOH. Mr. Chairman, thank you for those comments. You make three points. First, about a resolution at Geneva. Congress has expressed its concern to me, both privately and at the last hearing that I attended here, and we have taken that concern very much as part of our decisionmaking. We also took note as Congressman Lantos noted of the Senate's interest in the question and his comments and your comments today. Secretary Albright testified 2 days ago before the Senate Foreign Relations Committee. We are aware of this congressional expression of interest and support for a resolution. We are considering what our approach would be and what the most effective way is to get the Chinese attention on this question.

Secretary Albright is going to China this weekend, as you know, and I will be accompanying her. You know it is her habit to engage in straight talk, even when it does not please her hosts. You also know that a matter of this nature is a multilateral matter which requires consultations with our allies. I have spent a good part of time consulting with our allies on this question, and indeed just last week was in Brussels consulting with our allies. And even though our strategy is still under active consideration and the result is yet to be announced, it is very clear that this is a priority decision for the Administration. We have the question under active consideration and we appreciate your interest in the question.

On the second point that you make, that China is a totalitarian versus an authoritarian regime, I don't think we pull any punches on China. Our report tells it like it is. I think we said the human rights record of the government deteriorated sharply beginning in the final months of the year. We pointed to the fact that beginning last fall, the Communist Party leaders moved to, "nip in the bud," using a phrase used by one of their leaders, organized challenges they believe to threaten national stability or Communist Party authority. We noted the restrictions on religion and fundamental freedoms that were intensified in Tibet and Xin Jiang and we focused specifically on the coercive planning practices that you mentioned.

In the introduction to the report, we said that the government severely restricted the freedom of assembly and continued to restrict freedom of association, religion and movement, discrimination against women, continued violence against women, including coercive family practices which sometimes included forced abortion and forced sterilization.

In the body of the report, as you have seen, we note that there is a difference between the policies and the practices, and we made it clear that those practices were influenced by the government. We say, "Intense pressure to meet family planning targets set by the government has resulted in documented instances where family planning officials have used coercion, including forced abortion and sterilization to meet government goals."

And in talking about population control policy, we mentioned that these rely on coercive measures and disciplinary measures that are being brought against those who violate those policies, including fines and other kinds of withholding of services, demotion, administrative punishments and the like. I don't think the report leaves any doubt that these are practices that are sponsored and endorsed by the government. We raise these aggressively with the Chinese in our human rights dialog.

I should say, Mr. Chairman, you have played an important role on your Committee in bringing these matters to light. I know you have visited China. When I go to China myself, I plan to raise and investigate these issues.

Mr. SMITH. Thank you. I will just ask a couple of questions and then I will yield to Ms. McKinney. Last year, as you know, we worked very hard on religious persecution legislation that came through our Subcommittee and we had numerous hearings on it. The bill regrettably was weakened in the Senate but still had some aspects to it that were worthy of support. Hopefully the executive branch will soon pick, if it hasn't already, the people who will serve on the commission that was created by the legislation. Perhaps you know who they might be today.

We plan this year on continuing our work on child labor. We had numerous hearings on child labor in the past. We had people from the business community, the labor community, human rights activists, people who were exploited, and personalities like Kathy Lee Gifford and others who came forward and gave some very fine testimony as well. We had an important bill on child labor. Not only did it provide some money to ILO, some additional money, but it also had some very modest measures—I won't even call them sanctions—contained in it, and the Administration opposed it. I would hope that this year we can revisit that. It was co-sponsored by many colleagues, including Mr. Lantos, who was the principal co-sponsor of the bill with me.

We will try to revive that and try to get that through this year, and I hope we can have your support on that because you did speak to that again this year.

We also have legislation that we are working on right now dealing with trafficking in women and children. It is a bill that has not been introduced yet. It is in draft form. And the Administration, I know, has taken a strong position on this, and I hope you can support the legislation. It would substantially increase penalties against those who forcibly or fraudulently traffic women and children into the international sex trade, deny non-humanitarian U.S. foreign aid to countries that do not vigorously prosecute the perpetrators of these crimes, and provide relief for victims of trafficking from forced removal to countries where they would face retribution or other hardship. And we hope to work with your office on

that, too, because this is an issue that is crying out for immediate response, and unfortunately nothing has passed or been signed to try to mitigate this egregious abuse. Perhaps you might want to touch on those issues because child labor is in the report; I think you have done a fine job on that, but it is still an issue that we need to do much, much more on. And again this trafficking issue which is an absolute global scandal.

Mr. KOH. Mr. Chairman, you have mentioned three important issues. The first is the Commission for the International Religious Freedom Act. As you know, that act housed an ambassadorial position in our Bureau. The Secretary had appointed her special representative on international religious freedom, my friend and colleague, Mr. Robert Seiple, who has been functioning and doing a wonderful job in our Bureau. He has been extremely active, has traveled extensively already in the early part of his tenure. He has traveled to such countries as China, Vietnam, and Egypt. He will be working his way through Europe pursuing these issues. He has been assembling his staff and has been very actively working on the question of the commission and completing its membership. So this is very much on the front burner and we take note of your concern.

On the child labor issue, we are well aware of the legislation that you introduced in 1997 and of the magnitude of the problem. As I mentioned, we have targeted this as a high priority for the next year of the Administration. The President's State of the Union address mentioned how we will work through the ILO to raise core standards and to conclude a treaty that would ban abusive child labor anywhere in the world. The Defense Secretary mentioned this again at her speech at Wesleyan University only a few weeks ago.

We have had support for the IPEC program, which you know well, and we consider this to be an incredibly important issue; that people should not be able to make money by exploiting children and that this is not a way in which competitive economic advantage should be achieved.

On the third issue, trafficking and women, again you have spotlighted an extremely important issue. Millions of women and children are trafficked around the world, and this is a problem in all regions of the world—countries as diverse as Russia, Ukraine, Thailand, Burma, Nepal, and Bangladesh—and we have focused very much on this as an issue. It has been the subject of the President's Interagency Council on Women which is chaired by Secretary Albright. It has been very high on the agenda of the First Lady who has spoken on the issue repeatedly. We have within the Global Affairs Bureau at the State Department, the Office of Women's Affairs, the special coordinator, Teresa Lord, who has given us high priority. In our own Bureau, we have focused on the question and looked carefully at the early drafts of your legislation, which I understand has not yet been introduced.

I don't think there is any dispute about the goal, the elimination of this kind of practice. I don't think there is any dispute about what it is. It is a crime. It is done for money. It is done with an objectification of individuals and a denial of their humanity.

The issue is not the goals, it is the means, and the means of targeting the problem. I think that is something on which I am very much looking forward to working with you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Secretary.

Ms. McKinney.

Ms. MCKINNEY. Thank you, Mr. Chairman. I think we will start with Uganda.

Over the last 2 years, the United States has given extraordinary financial and political support to Uganda. Uganda's development assistance level, at about \$50 million a year, is among the highest in Africa. The country has received separate visits from the First Lady in March 1997, the Secretary of State in December 1997, and the President in March 1998.

This has led to concerns that we have become more prominently identified with the Government of President Museveni than is justified, and less critical of the government's limitations than we should be.

An illustration of this problem is the constitutionally required referendum in mid-2000 on whether Uganda's current political system, including the right for peaceful political groups to organize and operate, are not votable commodities, that they will have a referendum to go to a multiparty system. We have been informed recently that the Department is willing to endorse this referendum provided that it is free and fair.

Do we support the development of political pluralism in Uganda, and if so, what are we doing to assure that this referendum does not take place, and that we stand for pluralism in Uganda?

Mr. KOH. Thank you, Congresswoman. Let me say first about the U.S. Government that it is true that we have had a number of visits by high-level officials to the Ugandan Government, but as is our practice, those trips have been combined with frank and straight talk about human rights conditions in the Ugandan Government.

The government's human rights record there remains poor, as we chronicled in our reports. Not only do we have problems with insurgents, who have committed serious abuses, particularly the Lord's Army, which has engaged in abduction, enslavement, and use of child soldiers, but this is something the Secretary made a high priority on her trip to Gulu to speak to the situation. She spoke to Angelina Acheng, who is one of the leaders of the mothers of the missing, and gave it a very high priority.

The issue that you raise, which is the issue of electoral freedom, is something that is of extremely high concern to us. We focused on the question of the Referendum 2000, and the point which I made in my general remarks applies here. We support democracy, we support more than just elections, but true democracy, by which we mean a robust political system, independent media, the rule of law, and a full civil society.

We are observing closely the debate that surrounds the Year 2000 referendum. Our insistence is that the process must provide strong protections for the freedom of expression and association for all participants. We are not going to give any election a rubber stamp.

We want to make sure that they are full, free, and fair elections, and we also support freedom of association and the principle of de-

mocracy over any particular political party and individual. We are going to stick to those principles with respect to the Ugandan Government, and we understand your concern, and we share those concerns.

Ms. MCKINNEY. Also, if we could shift to the Democratic Republic of Congo, in your report you mentioned that one-third of the Congolese territory has been lost by the RCD, but nowhere do you mention in the Rwanda report or in the U.S. Government report, nor unfortunately, not even in the Democratic Republic of Congo report that this country has been invaded by Uganda and Rwanda, and that the RCD obtains much of its support from these two countries.

How do you account for such a glaring omission?

Mr. KOH. I don't think we have held back or pulled any punches on the situation in the Democratic Republic of Congo, or what we call the DROC. The civil war, which began last August, has been an inferno. It has claimed the lives of thousands of civilians; it has displaced thousands of others. The rebel attacks and the military measures and response have exacerbated what was already an extremely poor human rights situation.

We have acknowledged the role of security forces in exjudicial killings. We have noted the problems of official prejudice against minorities, and particularly the problems of the government in obstructing the United Nations from investigating reports of massacres and not allowing U.N. representatives to come in.

Mr. Reed Brody, who is one of those who was stopped at the border, I think will be testifying with you later. I think he can elaborate more.

I think the point is that we were well aware of the abuses there, that we expect there will be great attention drawn to the perpetrators of the abuses. But I think what we are focused on now is how the U.S. Government can try to deal with the problems in the region by using diplomatic efforts to try to bring the conflict to a close.

Particularly at the United Nations, the aim is not only to broker a cease-fire and a negotiated settlement, but also to work with the International Coalition Against Genocide to try to stop the genocidal aspects of this. President Clinton recently established in December 1998, at the 50th anniversary of the Universal Declaration, a Genocide Early Warning Center, which we are hoping will give us a capacity to deal with these kinds of problems to prevent the DROC situation from devolving into another crisis of the kind we have already seen on the African continent.

So we are focused on these issues. We understand the DROC to be an area of prime concern. We focused and reported, we think fairly, accurately, and toughly, on the situation; and we hope that that report will be satisfactory to you.

Ms. MCKINNEY. I would just like to say that our silence on this whole issue of the travesty that is taking place in the Democratic Republic of Congo is strikingly similar to the silence that this country had in 1994, during the genocide.

I think we need to be more vocal about what is going on there, and if, indeed, our policy is to call a spade a spade, we need to even do that to our friends.

I would like to move now to Rwanda. The question I have centers around the fact that the Government of Rwanda is not in harmony with the Arusha Accords. What are we doing to change this situation?

Mr. KOH. Well, the United States has been an influential actor with regard to Rwanda. We have taken the situation there extremely seriously. The government's human rights record did improve there in some respects in the last year, and we have focused particularly on the accountability question there, particularly in providing support for the international criminal tribunal fora.

I think we want to mention that with regard to the regional conflict there, we have attempted to remain neutral and to advocate accountability for all perpetrators of genocide and other human rights abuses. Our job there, or our goal there, is not to whitewash any situation, but to try to bring the conflict to an end and to bring the perpetrators to justice.

Ms. MCKINNEY. My final question, Mr. Chairman, is about Nigeria. Human Rights Watch just recently released a report that said that even oil companies, including American oil companies—one oil company in particular, Chevron—had allowed the security forces of Nigeria to use its helicopter and boats to suppress local people who were protesting.

The security soldiers used the helicopter and a boat, and in the process, they attacked and burned two small villages, killing at least four people.

What is it that we are doing to influence the Nigerian Government, as well as U.S. companies, to investigate these incidents, to publish their reports, and to respect civil and political rights?

Mr. KOH. Congresswoman McKinney, I am a great admirer of Human Rights Watch. I sat on the board of Human Rights Watch. I think they have forgotten to remove me from the mailing list as a board member, so I receive all of their reports as soon as they are published.

I have received that report, I have already read it, and we are looking very closely into the questions. Obviously, the issue of the relationship between corporate activity, oil production, human rights issues—and environmental issues also—is one which is plaguing various parts of Nigeria.

I think the big question there is, to what extent can we move the human rights situation, which is far from perfect, along to one in which we can achieve civilian transition? That is where the greatest hope remains.

The set of elections that I discussed in my opening remarks, the three elections that have already occurred, and the one which is coming up this weekend will really mark the test of whether a civilian transition can happen. I think our main focus ought to be to make sure that those elections occur, that they are fair, that the voter turnout is high, and that there are no irregularities.

My own bureau has worked very closely with those individuals and NGO's that are monitoring the elections. We have spoken to individuals at the Carter Center, at NDI, at IRI, who are down there right now. We just had a meeting the other day of an inter-agency working group in my bureau which focused on the question of how we can promote fair and free Nigerian elections.

I think when we do have a civilian government that is accountable to the people, it can start to get some leverage and traction on the human rights issues across the country that have just been impossible to do under the previous authoritarian rule.

It is going to be a long haul. There are still human rights problems, and there will be human rights problems. But the question is, how can we move this into a situation of opportunity for democracy and human rights? That is what we are attempting to do.

Ms. MCKINNEY. Does that mean you are not holding U.S. corporations accountable for their activities as it relates to human rights violations?

Mr. KOH. I certainly did not say that, and I certainly don't believe that.

It seems to me that one of the issues that we are trying to work on very aggressively in my time in this bureau is how we can connect to and speak frankly to corporations about their conduct. We know about their own corporate code of conduct effort. We think that this corporate code of conduct effort and the idea of codes of conduct is an important function for reining in human rights abuses.

There have been a number of advances on this front. You know well Reverend Leon Sullivan and his Sullivan principles, which have recently been expanded into global Sullivan principles. We think these can be connected with the model business principles that we have been working to try to forge a real partnership with corporations on, in terms of reining in and setting standards for their own human rights conduct.

So this is very much a concern of the bureau, under my leadership. I hope to make it a priority.

Ms. MCKINNEY. I will take that as an endorsement of my bill, and I will get back with you for later support.

Mr. KOH. I am looking forward to working with you on anything involving human rights.

Mr. SMITH. Thank you, Ms. McKinney.

Mr. Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman. I really had not intended to pose any questions.

Mr. KOH. Feel no need, Mr. Delahunt.

Mr. DELAHUNT. However, I was really disturbed this morning when I read *The New York Times*. I would like to direct your attention to a particular article regarding Guatemala. I don't know, Mr. Secretary, whether you have had a chance to peruse it. I have attempted, while I am sitting here, to peruse the report, but I would be interested in your comments on that story.

What concerned me was the report that it was the Central Intelligence Agency that trained the military. I am going to quote from the story in *The New York Times* and ask for your response, as well as comments from my colleagues on the panel.

This was the lead story today in *The New York Times*. The headline read, "Guatemalan Army Waged Genocide, a New Report Finds."

"A Truth Commission report has concluded that the United States gave money and training to a Guatemalan military that committed acts of genocide against the Mayan people during the

most brutal armed conflict in Latin America, Guatemala's 36-year civil war."

I think it is important to note, too, that this commission was established as part of the U.N.-supervised peace accord that ended the war back in 1996, so it would appear to have substantial credibility.

Another excerpt that I will read is in the second paragraph. "The commission confirmed that the CIA aided Guatemalan military forces." It then proceeds to suggest or state unequivocally that the commission specifically named military intelligence as the organizer of illegal detentions, torture, forced disappearance, and executions; and it said that the many massacres were a direct result of government policy.

What further exacerbated my own concern was that the story also reports that the army leadership has remained defiant, accusing international and national actors for their roles in the violence, and insisting that the military acted under a constitutional mandate to defend the state from Communism.

I would be interested in any response that you might have to that story.

Mr. KOH. Congressman, I also read the story with great interest. When you said that you were horrified by a story you read in *The New York Times*, that is what my day is like every day. I wasn't sure which story you were talking about.

It is true that the story in Guatemala got deservedly high attention today. It has not been possible to read the entire report. It is a nine-volume report of the Historical Clarification Commission, which was prepared over an extended period of time. All that is available at this point is an 89-page summary.

I knew of the commission's work well. It is headed by a distinguished German international law professor, Christian Tomuschat, who, from my days as a professor, I knew of his work, and for whom I have high regard.

Clearly, the allegations of the report are troubling and need to be looked into quite carefully. Let me say, though, to put it into perspective, that the U.S. Government has been extremely supportive of the effort to find the truth in Guatemala.

One thing that is noted in the story in *The Times* is that they made extensive use of declassified documents from the United States itself, thousands of pages of documents which the U.S. Government made available and released in an effort to be forthcoming.

The U.S. Government has also made a major financial contribution to this commission, and provided the commission with \$1.5 million in financial support. I think it is important to look into these issues.

There is no question that the Guatemalan military was responsible for horrific massacres during the war and that rural villagers and indigenous people bore the brunt of the violence. But when it ended, the United States participated in the peace process, and has since been extremely supportive of this process of accountability, truth, and reconciliation.

We would say that the human rights climate in Guatemala is improving, and we do believe that even though it is important to look at the past—

Mr. DELAHUNT. I would suggest, according to this report, Mr. Secretary, from an extremely low base.

Mr. KOH. That is the way it often is, Congressman. When you look at snapshots, things can be quite discouraging. But in my business, trend lines count for something, too. And I think that this is one area in Latin America where at least this report itself marks an effort to come to grips with the past, to uncover the truth, to give meaningful relief to some of the victims in the form of the truth. The question really is, where do we go from here?

Mr. DELAHUNT. I concur with that, and I respect that, Mr. Secretary. But what disturbs me about the story in *The Times* itself—and I understand you have not had an opportunity to review it, so I am just asking for a conditional comment about what is occurring in Guatemala—but toward the end of the story, there is a statement that, “Despite a requirement of the peace accords that the army’s size and role be reduced, experts monitoring the progress say that there has been checkered compliance, and that the army still has a control on internal affairs, rather than being focused solely on the defense of the nation.”

Mr. KOH. I think our report on Guatemala, which speaks to these issues, is quite direct and blunt about the truth there. I think the story will provoke a lot of necessary examination and discussion. We believe that that is entirely warranted.

Mr. DELAHUNT. I would also reference that the story does incorporate a reference to the death of a Roman Catholic bishop and leading defender of human rights, Juan Jose Gerardi, who was beaten to death with a concrete block just days after making public the results of a 3-year investigation of human rights abuses during the war that was sponsored by the Roman Catholic Church.

I note in the report on Guatemala that the authorities there charged a cook, and dropped those charges, and dropped some charges against some other worker in the parish, and now have charged the bishop’s assistant and co-occupant of the parish house.

As a former prosecutor, that leaves me very uneasy about what has occurred, and the investigation of that homicide.

Mr. KOH. Congressman, I think with a nine-volume report, of which we only at this point have the highlights, we have a lot of things to look at.

I have been concerned with Guatemala. Before I was in the government, I was involved with lawsuits against Guatemalan officials on human rights abuses, and I intend to keep it a high concern and focus of my time on this job.

Mr. DELAHUNT. Thank you very much, Mr. Secretary. I would — hope that the Chairman might entertain a hearing into exactly what is occurring in Guatemala, particularly in light of the report, and what we hear is a nine-volume work.

I would recommend and endorse that, Mr. Chairman.

Mr. KOH. Mr. Congressman, I would say that the murder of Bishop Gerardi, which you discussed and which was mentioned in this report, is also discussed in some detail in our report, which we think provides a lot of information for you on that subject.

Mr. DELAHUNT. I did. I appreciate the honesty of it, and laying it right out. What I just had a moment to peruse left me with more unease. But thank you.

Mr. KOH. Thank you.

Mr. SMITH. I would just say to my good friend from Massachusetts, we will look into that idea, because I remember when the Truth Commission rendered its report on El Salvador, that three members of that panel came and testified, and it was very informative. We were able to get a lot of information and also see how we might not only hold people accountable, but also promote reconciliation in that country.

I did meet with President Arzu right as he came into power after the election, and was very happy to report that he sacked in excess of 100 colonels and people who had very checkered pasts, and while I was there, the day I arrived, there was an attempt on his life.

I am not sure if they ever found out who did it or why, although I think the why could be certainly guessed at.

But I do think that Guatemala, as the Secretary has said, has made some very real progress. But that doesn't mean that the past cannot be investigated, and if there is any U.S. complicity in that, we certainly need to get to the bottom of that so that never happens again. I think it is an excellent suggestion.

Mr. DELAHUNT. Thank you, Mr. Chairman. I really would like to work with you on this particular matter. Thank you.

Mr. SMITH. Thank you, Mr. Delahunt.

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman.

I first would like to offer my personal welcome to Secretary Koh for taking up this important position in the Administration.

Mr. Chairman, I want to thank you again for calling the hearing on this very important issue of human rights. The last time we had a hearing, Secretary Koh, you had just left, and because of a conflict in the schedule, I did not have a chance to dialog with you concerning some of my problems that I have concerning human rights.

I do want to commend and thank you for a very excellent statement, at least in your understanding and perception of what it means in human rights. It is a very interesting story.

During the cold war, I think human rights were not even on the map. We supported dictatorships for the sake of fighting communism. There never was any consideration of the sort, I think, until now, which I am very happy about.

You indicated earlier in the past that when the State Department issued the Country Reports there was a ranking involved. Now there has been a change and there is no ranking. I would like to ask the Secretary, by doing that, I get a very strong impression that there is just no way that the State Department could possibly, on an equal basis, apply its limited resources on the issues affecting so many regions of the world.

I realize that there are 1.3 billion people living in the People's Republic of China. Taking the fact that when China, as a government or as a republic, was first organized in 1949, Mao Tse-tung had to put up with 400 million people to feed and to provide for; we have not even reached that in our own country, as far as population goes.

Mr. Secretary, I just wanted to ask, in reality, shouldn't the Administration take the numbers as the basis of putting emphasis as to which region and which country we should be emphasizing in terms of pushing for an end to human rights violations and abuses?

Mr. KOH. Mr. Faleomavaega, thank you for your kind remarks.

We have actually never ranked countries. It is important to say that the Human Rights Bureau started as a reporting bureau. The idea was that we should have one source in which the truth is told comprehensively with regard to each country, with a full and thorough investigation.

We do not mean to suggest that some violations are more important than others or that they should be traded off or balanced against each other.

As time has moved along, our Bureau has acquired not just a reporting function, but also a policy function and an advocacy function and an outreach function, all of which we have tried to employ. That has been the thrust of our activity, to use this reporting base, which we think is the center of our credibility to try to move on and then promote human rights as aggressively as we can.

I think we want to treat each country on its own merits, to speak about it fairly. We are often asked, why didn't you encourage this country this year, or why didn't you punish this country this year? That is not the goal of these reports. The goal of these reports is simply to tell the truth, and we believe that we have been tough, but fair in every report that we have issued this year.

Mr. FALEOMAVAEGA. Obviously, Mr. Secretary, there seems to be a difference of opinion on that as far as the Administration's aggressiveness or lack of aggressiveness in pursuing human rights abuses in other regions of the world.

You know, there is a U.N. Human Rights Division that also does this. What is your opinion of the U.N. participation on locating or even citing reports on human rights abuses? Is there some credence given to the United Nations participating in this issue, or do they seem to be looking at America as the basis of how we deal with these nations on a one-on-one basis, or even on a regional basis? Do they really help out in addressing the serious issue of human rights abuses?

It is my understanding that we have a new person that is now heading the U.N. division on human rights violations, and she seems to be very aggressive in this effort. I just wanted to ask you, how do we compare to what the United Nations is doing about human rights abuses?

Mr. KOH. The United Nations is a very large entity and has many units that are focused on human rights. Most of it is located under the Economic and Social Council. There is a U.N. Human Rights Commission that we mentioned. There are a number of treaty-based organizations.

Then, I think you are referring to the U.N. High Commissioner on Human Rights, Mary Robinson, the former President of Ireland, who is based in Geneva. She is relatively new to the position and has taken on a very large task.

Just last week I was in Geneva and went and met with the senior members of her staff to talk about ways in which we could cooperate. For example, one of the issues that came up is the fact

that she had quite recently visited China, and was planning to send a needs assessment team. We talked about the ways in which we could promote the same goals, she from the multilateral side and we from the U.S. foreign policy side.

My view is that Commissioner Robinson is a person of deep commitment to human rights with a justifiably high stature, with a very daunting task, and I think she deserves our support.

Mr. FALEOMAVEGA. I would like to raise a couple of questions about Indonesia now.

Mr. Secretary, many Americans probably do not know the history of what happened in that area or that region of the world. At the height of the cold war, as you know, this little area known as West Papua New Guinea was a former Dutch colony, as was Indonesia, as well.

So when the Dutch left, the Indonesian Government immediately took over West Papua New Guinea. As the history evolved on this thing, the Dutch, or Holland at the time, then decided it wanted to declare war on Indonesia. Finding out that our allies were not ready, including the United States, were not supportive of this notion, we just kind of looked the other way and let Indonesia take over West Papua New Guinea, which is now known as Irian Jaya. So it is like a transfer from one colonial master to another colonial master.

I wanted to ask you the question, where are we now with West Papua New Guinea? As you know, Mr. Secretary, over 200,000 Melanesians who live in this area have been tortured, murdered, disappeared in the past 30 years under the reigns of Sukarno as well as Suharto. I think there is an immediate cry among the Melanesians who live in this area for independence, a greater sense of autonomy.

I just wanted to ask if the State Department is directly involved with this issue.

Mr. KOH. I don't think we could be much more deeply engaged in this question than we are. I have been in this office for only 4 months. I went to Indonesia, I think less than a week after I was sworn in. I am going again this weekend, after I go to Beijing, so that will be twice in 4 months.

The magnitude of human rights and democracy issues in Indonesia warrants this attention. Indonesia is the fourth largest country in the world. It is the largest Islamic country. As you know, it faces its first set of democratic elections in 40 years, which will be absolutely critical. The move from the Suharto regime to the Habibie regime has presented both a moment of opportunity and a moment of concern, and there are a number of regions—East Timor has gotten a lot of publicity, as you well know; Aceh, as well as Irian Jaya—in which issues of autonomy and human rights have come to pass and have come to be of major concern also.

I have followed the situation in Irian Jaya, or as you call it, West Papua, quite closely. There were demonstrations there in July 1998 favoring independence. These were put down, in some cases by excessive use of force by the ABRI, the military.

Congressman Smith spoke of plastic bullets. When I was in Indonesia, it was shortly after another set of demonstrations, and Jakarta had been put down with plastic bullets, and I saw the kinds

of harm that that can wreak. It is clear that the areas leaders are supportive of a proposed national dialog, and President Habibie has agreed to hold such a dialog beginning in February.

We believe that this is a positive step. We support the dialog. We think it will give the Irianese an avenue in which they can air their grievances.

Lack of progress on this front we think would be harmful. We think it would make it difficult to move to fair and free elections in June. I think I want to emphasize most of all, Congressman, how tense the situation is in Indonesia and how many different pieces of the human rights picture there are. You have student demonstrators, you have the efforts to organize opposing political parties, you have the effort to recreate a civil society, you have this effort to try to put together meaningful elections for a huge, wide-spread country. You have ethnic violence, religious freedom violations, tense situations in these three regions I have mentioned.

The hope, again, is that we can have elections there that will move us into a new kind of situation that has the political capacity to deal with some of these issues. It is a major concern to this Administration. The Secretary spoke about it in great detail in her testimony before the Foreign Relations Committee on Wednesday and also before this Committee yesterday, and she and I will be there together next week. We will be meeting with a wide range of governmental and nongovernmental leaders to focus on this question.

Mr. FALCOMA. I am sure you know also that—I think it was a couple of months ago on the first page of *The Wall Street Journal* there is an American mining company that has extracted hundreds of millions of dollars worth of gold from West Papua New Guinea, and there are some serious questions about pollution and environmental problems that it has caused. I just wanted to note that for the record.

But, Mr. Secretary, I do thank you for your earnestness in trying to resolve this problem. I do sincerely hope, as I know that the Chairman himself is very much up to date on this situation, that we are doing it for East Timor—and God bless them, because Portugal has been a very active advocate, because it was a former Portuguese colony.

But I am only pleading on behalf of the West Papuan New Guineans, because nobody is pleading their cause. I do hope sincerely, Mr. Secretary, that you will be that one.

Mr. KOH. I read the story that you are referring to. It also raises the question of corporate responsibility, as raised by Congresswoman McKinney. I think there is an important one involving this corporation based in Louisiana. It is something in which we have a keen interest. It is part of our overall picture with regard to the Indonesian situation.

Mr. FALCOMA. Thank you, Mr. Secretary.

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

I would like to add to the questions and concern about Indonesia. Mr. Rees and I undertook an Indonesia trip right as Mr. Suharto left and Mr. Habibie was coming in, and we talked to all the key players about the matters we raised then and continue to raise with deep concern.

Mr. Delahunt talked about complicity or alleged complicity of the CIA with abuses in Guatemala. There is a deep concern with the JCET program and other military involvement that we aided and abetted people in KOPASSUS, and maybe other elements of the Indonesian armed forces who have been implicated by human rights organizations in credible reports of torturing Indonesian dissidents.

When we ask questions—and this related to Rwanda as well—of military personnel, including the Assistant Secretaries of Defense who testified before our Subcommittee, we have not gotten adequate answers. I hope your office can help us secure those, to see if we did indeed train some of the worst of the worst in Indonesia and in Rwanda, with things such as sniper training.

We were told that JCET was a kinder and gentler kind of program, only to find out that we gave them sniper training and other kinds of training that could be used when crowds are gathered to put bullets in people's heads. We know Prabowo is under investigation—hopefully, that will yield some accountability—and other elements of that army. But if we trained them and in any way were involved, we need to know that, again to make sure that does not happen.

I was not happy when I met with our defense attache in Jakarta when he said, we have run this by human rights organizations and they said there is no problem. I said, name them. The Ambassador was right in the room. We waited for the answer. There was no answer forthcoming.

The human rights community has been, in my view, uniform in condemning that kind of side-by-side hand-in-glove work with KOPASSUS and others. I hope we can work to make sure we have a human rights policy with the military and on the other side.

That corresponds with what Mr. Faleomavaega was talking about as well.

Mr. DELAHUNT. Mr. Smith, may I just ask one question? Again, I apologize that I have not had an opportunity to review these reports. Clearly, they just arrived.

The Chairman makes an excellent point—I would like to be made aware of those situations. Whether it is an agency of the government, an American corporation or a multinational corporation with substantial American investment, are they identified in the reports, not just simply for being complicit with any human rights violations, but whether they are looking the other way, so to speak?

Mr. KOH. Congressman, our report pulls no punches on these issues. It is both a factual source of information for you on these questions, and also it is a basis for looking into some of these exact issues of concern.

You are probably familiar with the Leahy amendment and the way that has been used as a way of policing arms transfers to countries in which security forces are engaged in human rights abuses.

The issue which Congressman Smith raised is one that has been of deep concern to our department. Assistant Secretary Stanley Roth was here testifying only last week, and he is someone well known to this Committee from his prior role as a senior staff member. He and I have worked very closely together on these questions.

At this point, all military-to-military contact with Indonesia is very carefully reviewed. Each activity has to be approved at the Under Secretary level.

Mr. DELAHUNT. I am not just referring to Indonesia, Mr. Secretary. I am talking as a matter of course, as a matter of practice. Whether it is governmental or private sector involvement—and again, it doesn't have to be affirmative in nature, but just simply looking the other way, coming from this nation—I think it is important information. I just don't know whether that information is articulated or enumerated within the report on the country-to-country reports.

Mr. KOH. Obviously, a prime focus of each report is the government's own—in each country, the government's own violations, but in each country report we also talk about other agents and participants in human rights abuses, and try to get to the heart of the issue.

So what you are mentioning is precisely why we have these reports, as a resource and a standing resource for this kind of information.

Mr. FALEOMAVAEGA. Mr. Chairman.

Mr. SMITH. Yes.

Mr. FALEOMAVAEGA. I think in following what Mr. Delahunt was pursuing here earlier, I would like to ask Secretary Koh, if it is not asking too much; of the countries that the State Department has identified as part of the human rights report that you made, in just some general way, what is our corporate presence in that country, and the amount of dollar value of our investments in those countries that we have some difficulty with, as far as human rights are concerned?

Is there anything secret about this, or can we put in something like that to kind of give us a sense of where we are?

We always have this debate here. It is always whether the corporate community is having the upper hand with the Administration in going ahead at the expense of human rights. On the other hand, are we suggesting that maybe something fair—you know, in some circles, we say "free trade," and I say "fair trade."

I would be very curious, Mr. Secretary, if it is possible—not having to cite specifically every company that does business in that country, but just in a general sense, what is our investment in dollar value in those countries that we seem to have these problems with?

Mr. KOH. I understand your point. I should say that there are other agencies of the U.S. Government that monitor the extent of corporate activity in different countries.

As the Chair was kind enough to note, the reporting burdens that we have dealing with the issues that we have are not trivial. We have to deal with 194 countries. When we started, as I said, there were only 82 countries. We now are taking on the issue of international religious freedom, labor diplomacy.

So not only has our original task expanded because of the number of countries on which we need to report, but we have also taken on these policy functions, these advocacy functions. And Congress has asked us to assume new mandates and to do new kinds of reporting.

I am not complaining, it is part of human rights work, but it does raise a resource question, and it does take a group of people who are already extremely overworked and underpaid and ask them to look into other things.

So I simply note that for the record and say that we do have a box here of 5,000 pages. A lot of the issues and facts that you are interested in knowing are in there.

Mr. SMITH. Mr. Secretary, let me ask some final questions. I understand the Ranking Member has some final questions, and then we will move on to the second panel. Thank you for your generosity with your time this morning and this afternoon. I think it is important. This should be a couple-day-long hearing, but I know you are leaving soon for China, so we will let you get packed up and go and do your good work.

You mentioned about trend lines when you were talking about Guatemala, and how important it is to be cognizant of where the trend is going. Russia seems to be one of the most troubling parts of the world, because while we thought—I won't say "victory," but at least progress was being achieved—they have now done a rather abrupt U-turn in a number of areas.

I was in Russia last year with Dr. Billington, a Helsinki Commissioner, and Congressmen Frank Wolf and Tony Hall, and now, as the Chairman of the Helsinki Commission, I raised the issue of the restrictive 1997 Law on Religious Freedom—it is a misnomer. I also raised with the Duma and with members of Yeltsin's Government the belief that it is absolutely contrary to the Helsinki Accords and the follow-up agreements to the Helsinki Final Act.

We have had hearings on it. We did not really make all that much progress in our meetings. They were week-long in Moscow. Last January 15 we had a CSCE hearing. We were talking about the rising tide of anti-Semitism, which is now becoming very acute.

It is no longer just being privatized, which was the word a couple of years ago, when government officials were looking askance when these anti-Semitic comments were being made. Now you have people like General Albert Makashov making these outrageous statements about getting rid of the Yids, movement against the Yids. It is reminiscent of what we saw in the Nazi era, when undeserved blame was being affixed to Jewish people in Germany.

The trend line is bad. We know that Primakov has been no help; Yeltsin is very sick. The cast of characters is very, very troubling. What is the view on this within the Administration, and where do we go to try to mitigate this abuse?

Mr. KOH. Obviously, we are concerned about the human rights and democracy issues that you have raised. It is true that the Helsinki process which brought about the startling transformation of the Soviet Union and created the circumstances under which human rights could become a meaningfully achievable objective in Eastern Europe, has been complicated by all of the internal crises that are going on in Russia right now.

We appreciate your fine work as Chair, now the Chair of the Helsinki Commission. I am delighted that I am also now a commissioner so I hope I will have a chance to join you on that side of the rostrum in a future hearing.

I did read your testimony with regard to the hearing on the Russian situation last week.

I made my first trip to the OSCE in Vienna on the Kosovo question. I have come to the Hill and spoken to Commission members, and we have focused particularly on the Russian situation. Let me say, on the anti-Semitism issue first, it goes without saying that such sentiments have no place in civilized society. We have condemned them. They have also been resolutely, I should say, opposed by President Yeltsin and his government, although, as you point out, he is having health problems of his own.

We have made senior Russian officials well aware of our views, and the Secretary raised these issues during her recent trip to Russia, both in private and in public meetings.

We are also aware of your work on other aspects of the oppressive Russian religion law and the Smith amendment. We are trying to use the process of the Helsinki Commission and the OSCE process as a way of furthering the development of human rights in Russia during this crisis period.

If you look carefully at our report, you will see that again we point out that the Russian Government's record last year was uneven and that although constitutional structures are now defined and democratic in conception, the execution of that in practice remains very shaky, as you have just pointed out.

The well-known case of Alexander Nikitin, which is well known to you, shows some of the difficulties that can be had there, problems that are being faced by Jehovah's Witnesses and others. So we are very much aware of the concerns as a member of the Helsinki Commission, and as someone working closely with you in this capacity, I hope we will have a chance to address those problems together.

Mr. SMITH. With regard to the International Tribunal, the Yugoslavia War Crimes Tribunal, and its application to Kosovo, I was concerned that in France this issue was put on the negotiating table, which was roundly rejected by the Serbs, not unexpectedly. The only thing we should be seeking is their cooperation to grant access to Kosovo, rather than any kind of permission other than visas. Somehow, by giving the Serbs veto power, we give them the ability to exclude Kosovo from the jurisdiction of the Tribunal.

What is your view on that? How do we get the tribunal to do its necessary work in Kosovo?

Mr. KOH. Human rights in Kosovo have been one of my prime concerns since I have been in this office. In December I visited Kosovo, as well as Belgrade and Montenegro, just before Christmas. Just last week I was at Rambouillet during the middle of the talks with the Secretary when this issue was being discussed.

In advance of going, I had conversations with the Office of the Prosecutor of the War Crimes Tribunal in The Hague. I also spoke to people from the Office of the President of the Tribunal, Judge Gabriel Kirk MacDonald, and I also convened meetings of NGO groups that have been monitoring and have been very concerned about the situation.

When we got to Rambouillet, we did sit down with the American negotiators, which included close colleagues of ours from the State Department, and talked to them about the issues involving the Tri-

bunal, particularly questions involving access of the War Crimes Tribunal investigators to Kosovo. There has been this major problem, as you know, with Milosevic's stubborn refusal to grant visas to international investigators from the War Crimes Tribunal. That simply has to be overcome.

Although the language of the texts that are on the table now and which are still the subject of discussion is not fully available to the public, it does call for complete, unfettered, and unimpeded access for War Crimes Tribunal investigators.

Mr. SMITH. They do have jurisdiction over Kosovo, in your view?

Mr. KOH. I think that is clear, that the War Crimes Tribunal has itself made that clear. The War Crimes Tribunal is itself the product of Chapter 7 of the U.N. charter, and flows directly from the Security Council resolution. That is not something that could be overridden by an agreement. That agreement itself, I think, has been drafted in a way to take those concerns into account.

Mr. SMITH. Let me ask you, on Turkey, about an issue on which both the Helsinki Commission and our Committee has had a number of hearings, as well as a Helsinki Commission delegation trip last year. Over a year ago, the Administration identified several categories for gauging Turkey's human rights performance—decriminalization of freedom of expression, release of imprisoned parliamentarians and journalists, reopening of human rights NGO's, and ending of the state of emergency in the southeast.

Would you comment on the developments in each of these categories mentioned? And in recent days, obviously there has been a great deal of attention on the Kurdish population in Turkey. Does the United States have an established agenda in our bilateral relations with Turkey that specifically includes human rights for the Kurdish communities in Turkey, and to what extent has the Administration focused on developments in southeastern Turkey, where thousands of villages and hamlets have been destroyed, many by the Turkish military?

And added to that, maybe you could comment for the record, as well, in greater detail, the use of U.S. military supplies, materiel, and a proposal, we understand, to sell helicopters to Turkey. How can we even contemplate that when Turkey has not lived up to its OSCE and universally recognized obligations to human rights, and when there is evidence that they have used such things to kill?

Mr. KOH. Let me take the last question first, which is that, as I understand it, there is no contract currently on the table. If there was to be one put on the table, it would be subject to review under the Leahy amendment, which has been used, and in connection with some of the findings of our human rights reports, to stop other sales to Turkey.

On the general question that you raised, Turkey is a high priority country for us. My predecessor, John Shattuck, visited Turkey, I think, four or five times in his 5½ years. I have engaged in dialog directly with the Turkish ambassador here in Washington, and I plan to go there sometime this year.

As you know, the OSCE is having its summit in Istanbul, and the human rights implementation aspects of that will probably be held before, and perhaps we will be going there together in our capacity as commissioners.

On the substance of what is going on, it is clear that human rights abuses continue to be widespread. The torture of detainees does continue. There is inadequate prosecution of human rights abuses. There are extrajudicial killings.

With regard to the Kurdish population, I think you have correctly pointed out that there has been an important denial of cultural, political, and linguistic rights. We distinguish, of course, the struggle against terrorist activity from the treatment of the Kurdish population, which has a right, as do all minorities, to protection of their cultural and linguistic heritage. We do believe this is a subject of considerable concern.

We know that a Kurdish former member of parliament, Leyla Zana, I believe, gave testimony to the Helsinki Commission and expressed some of the particular concerns about the Turks. This is exactly the kind of issue we are going to be focused on during my time here in this office.

As you can tell by what I have been saying, I have not let a lot of moss grow under my feet during this job. It is important, and this is a high priority for us.

Mr. SMITH. Let me ask you about the Emergency Provisions Act in effect in Northern Ireland and the Prevention of Terrorism Act, the PTA, laws that I and many of my colleagues on both sides of the aisle have pressed the Blair Government and Mo Mowlam to get rid of, because they certainly do not apply to anywhere else in the United Kingdom, and they empower things like juryless Diplock courts.

The right to remain silent is not extended to those in Northern Ireland. Uncorroborated, forced confessions are used against defendants. Suspects are prevented from contacting their attorneys for an extended period of time. Suspects may be held for as long as 7 days without being charged.

You know as well as I the list, because that would not be tolerated in this country. We tried through our hearings and a visit to address these issues. We even had the Malaysian rapporteur, Param Cumaraswamy, come and speak to our Subcommittee last year. He issued a very damaging report on the RUC and the policing issue in Northern Ireland.

Given that the peace process and the Good Friday Agreement obviously are moving, but there are always some glitches, it seems to me the time has come for our government to call upon the Blair Government to get rid of those things, and hopefully to let the full rights accrue to those in Northern Ireland.

What is your view on that?

Mr. KOH. I think, as an academic, one of the things that I taught was the European Convention on Human Rights and the jurisprudence that has been made under it. Many of the issues that you raise with regard to the Diplock courts with regard to the denial of due process; a lot of European human rights law has been made out of these incidents and experiences.

The President, as you know, has been deeply engaged in the process of bringing about and helping to bring about what we hope will be a lasting solution to the Good Friday Accords. The Good Friday Accords are a structure for moving forward on human rights issues. They contain a number of incredibly important provisions,

particularly with regard to a Northern Ireland Human Rights Commission, an independent Police Commission, the consolidation of several commissions into an Equality Commission; and we believe that moving this process along, as the President has done at the very highest level, is really the best hope.

It has been made clear, I think, by the President to both the British and Irish Governments that he wants to assist in making the peace process work and bringing about improvement in human rights and an end to this very long conflict and struggle.

You mentioned the Finucane case in your opening statement and again now. The intimidation of defense lawyers has been a prime concern of those who are focused on the human rights situation. It remains a very high-profile and controversial case. Indeed, the United Nations called on the government to reopen that case, and it has not done so.

So I do believe that the Northern Irish situation will continue to be a focus. On all of these, the big question is, is there a process or is there a structure which is in place for dealing with it and trying to move beyond it? I think here, at least, we have a set of accords and a set of institutions that we can hope will address these problems in the future.

Mr. SMITH. Let me just ask you, I saw there was no reference to the Robert Hamill case in the report. He was a man who was beaten to death. I have met with his sister. You have probably met with her, or others who were concerned with that case as well. It was done allegedly in full view of RUC officers.

I brought this up myself with Ronnie Flanagan, the RUC chief; he said they were doing an investigation. We haven't gotten any investigation. Does your bureau have anything on that, and if so, could you provide it to us?

Mr. KOH. We will look into that and get back to you. I appreciate your concern on it.

[Mr. Koh's reply below was submitted following the hearing.]

The beating and subsequent death of Robert Hamill occurred in 1997 and were covered in the U.K. Country Report on Human Rights Practices for 1997.

On May 8, 1997, Robert Hamill died of injuries he received on April 26, 1997, when he was savagely kicked and beaten by a loyalist mob in Portadown. Six persons were charged with his killing, but charges were subsequently dropped against five due to insufficient evidence. Police officers sitting nearby in an RUC vehicle during the attack did not come to Mr. Hamill's aid, saying that they neither saw nor heard the incident. Following criticism by the Hamill family and others of the RUC and its internal investigation of the officers' conduct, the case was referred to the Independent Commission for Police Complaints, and a complaint was lodged with the European Commission of Human Rights.

On March 25, 1999, the last defendant in the Hamill case, Marc Hobson, was found not guilty of murder, but he was sentenced to 4 years in prison for causing an affray in relation to the April 1997 incident. He is appealing.

The trial judge said that he remained concerned about some aspects of police actions during the attack on Mr. Hamill, but he said that even if RUC officers had been able to dismount from their Land Rover at the earliest possible opportunity, it was unlikely they could have saved the victim. The Hamill family, Sinn Fein, the SDLP and Garvaghy Road Residents' Coalition called for an independent inquiry into his murder. Rosemary Nelson was representing the Hamill family, but with her murder there has been a hiatus in their legal representation.

We will continue to follow any developments in the Hamill case and report on them as warranted in the "Country Reports."

Mr. SMITH. OK. Let me ask you about your upcoming trip. I don't want to go much longer, but there are so many questions. There

are a number of questions about specific countries that we will pose later for the record, and that does not diminish the interests or concerns about those countries. They will be asked in hearings, fact-finding trips, linkages to trade, whatever we can do to promote human rights in those countries will be done, I can assure you.

The Panchen Lama remains one of my deep concerns, that young boy who is 10 years old, I believe, now. Where is he? Is he OK? Why won't this government in China release him?

Recently, at the International Campaign for Tibet, we had a breakfast. Richard Gere, the chairman, made a very powerful statement. He has been before our Committee and the Full Committee in the past as well, and is one of those celebrities who is absolutely sincere and dedicated to the cause of human rights in general, and specifically to the Tibetans.

He reminded us on March 10 it would be the 40th anniversary of the Dalai Lama's forced exile, and of course that could become a flash point for enhanced Chinese repression in Lhasa and elsewhere.

Is the Administration going to raise this issue? Will you raise this issue forcefully, that there need to be international monitors, media, anyone who can be there to make sure that this doesn't happen? You certainly are going at a time right before when the crackdown could ensue.

What is your view on that?

Mr. KOH. The Secretary has taken the highest level of interest in the situation and in resolution of the relationship between Tibet and China. She has raised it and intends to raise it at the very highest level.

As I testified before this Committee last month, I raised the concern about the Panchen Lama most directly in our human rights dialog. I will raise it again when I go. If there is a return portion of the human rights dialog in the second half of the year, as was discussed, I will raise it and pursue it again.

The Tibet issue and the status of Tibet and the need for the Chinese to engage in political dialog with Tibet has been a tremendously important agenda item in the bilateral relationship. I expect the Secretary to press it, along with other human rights concerns, forthrightly and directly, as she does whenever she raises human rights concerns with any country.

Mr. SMITH. Let me ask you about Burma. Last year, a constituent of mine, Michelle Keegan, was held, along with a number of others, Americans and others, because they were handing out small business card-like statements that said, "We have not forgotten you. We are encouraging you on human rights, in Rangoon and elsewhere in Burma."

I have been trying ever since to get a visa to go and meet with the Peace and Development Council, the SPDC, and also Aung San Suu Kyi and others who are part of the opposition.

What can we be doing now? What is the Administration planning on doing with regard to Burma?

"We are happy with, and certainly many of us encouraged the Administration to promote, the idea of the limited sanctions that we do have, something that I raised when I was in Thailand. They wouldn't let me in across the border to assist my constituents. You

know, I would say, continue this, and you will become the next South Africa. There will be no investment whatsoever; we will push divestiture.

Is there a plan of action that the Administration has with regard to Burma, to try to mitigate those abuses, which are awful?

Mr. KOH. I don't think there is any issue which is closer to the Secretary's heart than the situation in Burma. She has a deep, deep commitment to human rights in Burma and to Aung San Suu Kyi as a leader. I admired your role with regard to your constituent. One of my own students was one of the others in that same party. Mr. Joseph Rees, staff counsel, was tremendously helpful to me as a private citizen in helping to gain information and to secure the release of that student.

I do believe that the situation in Burma is one of deep human rights abuse, and that the U.S. Government has pulled out all the stops as far as we are concerned and is trying to do more. We have used diplomatic measures, we have suspended economic aid, we have ended GSP and OPIC, we have organized multilateral responses, we have blocked lending by international financial institutions, we have implemented bans on U.S. investment. We have pressed other countries to engage in multilateral activities, and we have used millions of dollars in resources for humanitarian and democratic activities for Burmese refugees along the Thai border and given direct support to Burmese students on democracy activities inside Burma.

Mr. KOH. Whether this is all going to hopefully bring about the change and the recognition of the Aung San Suu Kyi group as a legitimate government ought to be determined, but I do think we have seen in other oppressive regimes, particularly South Africa, which may be one which was subjected to a similar sustained multilateral response, that over time it does have an effect, even if we can become frustrated by how long the abuses go on.

Mr. FALEOMAVEGA. Will the Chairman yield?

Mr. SMITH. I'll be happy to yield.

Mr. FALEOMAVEGA. On the question of Myanmar or Burma, as the Secretary had directed earlier, where are we with our policy of engagement? Aren't we somewhat contradicting our policies here? We do recognize human rights in China; why don't we engage in the same way that we do with Myanmar or Burma? Why shouldn't we open our relations with them and continue the engagement as we are doing now with China and its human rights abuses? Why shouldn't we do this with Burma?

Mr. KOH. Well, let me say first with regard to China that as the Secretary said yesterday before this Committee, a policy of engagement is not a policy of endorsement. It is an effort to try to use all of our tools to bring about results.

As I described in my testimony to this Committee last month, we have tried to use what we call an outside-inside approach; namely, pressure from the outside, persuasion and pushing from the inside with as many channels as we have to try to bring about change in China. It is a strategy of what we call a robust engagement that does not equal endorsement of human rights abuses.

Now, the problem with the Burmese, or the military regime in Burma, is they are not ones who have been susceptible to various

kinds of persuasion, and therefore, we have used various kinds of sanctions with regard to them and given active support to the Aung San Suu Kyi regime. So our inside activities there have been with regard to the legitimate democratic forces of Burma. And this is a group of rulers who have not shown any respect for democracy or human rights and, therefore, I think, have to be isolated and sanctioned to the extent that we can mobilize those sanctions.

Mr. FALÉOMAVAEGA. As I recall, we tried to do this, and were we not rebuked by the ASEAN members, some of the countries saying that this is really their own dialoguing with countries such as Myanmar? We had the same problem when we tried to discourage Mandela from going to Libya, and I believe President Mandela said, "Well, my gosh, Libya was the only country that recognized his efforts in trying to seek independence," as was then South Africa.

I am a little confused here. I mean, realizing, too, Vietnam is a Communist country, and yet we are opening diplomatic relations with that Communist country.

Mr. KOH. You make a good point, which is that to organize a multilateral response to a human rights problem in a particular country is not easy, because you have to persuade other countries to go along, and that is a central feature of employing any multilateral forum to target a country's human rights abuse, and that affects the way in which we approach our use of the multilateral tool. So I think you raise a good point, and it is something in which we face every time we try to decide whether to interact with other countries for a coordinated response on a human rights issue.

Mr. FALÉOMAVAEGA. My problem here is that Myanmar is doing very well because it continues to trade with a lot of Asian countries, despite our protests, despite our isolating them, if you will. So we really have not gained anything.

It seems to me that we can do it the same way that we have been dialoguing with the Soviet Union, the big Communist country, and of course what it has produced in itself. But I just wanted to know that I am trying to get a sense of where we are, completely disregarding these countries, yet recognized by many nations of the world, and we put ourselves in a little cube within—you know, we are not dialoguing, so by not dialoguing we are not getting anything out of it, especially in helping in some of the instances that we talked about that the Chairman raised earlier.

Mr. KOH. With respect, Congressman, Garrett Smith, my former principal Deputy Assistant Secretary, who, much to my regret, has now moved into the private sector, testified before this Committee some time ago this summer on Burma and the human rights conditions in Burma. I think he got a very warm reception, and there was broad agreement between the Committee and him about the situation.

But one thing I wish there was agreement on is that the human rights abuses and the accompanying multilateral sanctions have actually led to a profound impact on the economic situation in Burma. Burma was at one point one of the richest countries in the region, and it has really gone downhill, both because of the abuses of the regime, and because of the lack of democracy. This goes to a core point in my presentation, which is sooner or later dictator-

ships and their inability to respond to the needs of their citizens start to harm their own economic situation. And so I don't think that they are going to be able to hold this course for the long haul.

Mr. FALCOMA. Thank you, Mr. Chairman.

Mr. SMITH. Let me just ask a couple of final questions, and I have about two dozen that I will submit for the record.

With regards to Vietnam and Cuba, and as it relates to repatriation or sending people back, I believe that we have a very heightened responsibility when we are in any way responsible for somebody going from what is the safe haven, or someone who is, say, a boat person, or somebody taking off on a raft in Cuba, if we are going to return them, that they be returned to a situation that is safe to the greatest extent possible.

When the comprehensive plan of action was closing down, as you know, there was this overwhelming sense that the people that were going back were not true refugees. We know that that turns out to be totally untrue, and this Subcommittee and myself and others worked very hard to make sure that true refugees were screened in, and those who had been improperly screened out were hopefully given the ability to come here.

I note that the report says that only 13,000 of the people returned to Vietnam under the CPA were returned involuntarily, and then makes a very surprising claim that all 13,000 of these people had committed crimes in camps in countries of first asylum. I hope if that is not true, that that will be corrected, because that, I think, is a rather definitive statement that probably cannot be backed up.

But I am also very concerned that the UNHCR monitors seemingly don't think that there was any retribution visited upon those that went back. We have had information to suggest otherwise, and as a matter of fact, we actually had one of the UNHCR monitors appear before one of our Subcommittee hearings when that statement was being made repeatedly, and he pointed out that, of course, whenever a site visit is made of a returnee, somebody from the secret police is standing right there next to them. Now, who in their right mind is going to be forthcoming, given that situation, knowing that as soon as the UNHCR person leaves, life could become hell real quick if it wasn't already?

Maybe you can give us some information on Cuba and Vietnam about those people. How many people have we sent back to Cuba, for example? Have we followed each and every one of them when we have interdicted them on the high seas and then brought them back? We heard reports of people being beaten when they returned, and we all know the repression in Cuba was not abated, as evidenced by what is going to happen on Monday with those human rights activists who are going to be tried in a kangaroo court in Cuba.

Mr. KOH. Well, Congressman, I think, as you know, I spent 3 years of my life representing refugees who I believe were being involuntarily returned, and I don't think there is anyone who has a stronger commitment on these issues. I, in fact, represented Cuban refugees, a class of them, for a year and a half, and so the issues that you raise are very near and dear to my heart.

I think if the Administration thought that these were not their concerns, they certainly would not have appointed me to this position.

Mr. SMITH. As you know, I filed an amicus brief in one of the cases you were involved in.

Mr. KOH. Yes. I have also been very much focused on the concerns of the Vietnamese refugees. The sentence that you point to does, in fact, say some of these persons have committed crimes, and the equivocal statement is not there. So I think you have spotted a point on which the qualifier is, in fact, in the final report, which will be appearing in due course.

On the Vietnam issue and human rights issues in Vietnam, I think the report on Vietnam is tough, but fair. We say that the human rights record remains poor, although there are measurable improvements in a few areas, including some releases of political prisoners and loosening of religious restrictions, but serious problems remain. We have met with a number of the dissidents; I know that you have met with Doan Viet Hoat, as have I, and a number of the Vietnamese NGO's.

We have a bilateral human rights dialog going with the Vietnamese. The first round was held in Washington, DC, last year at the Deputy Assistant Secretary level, it has now been elevated, and I will conduct the next round of that human rights dialog in Hanoi, probably in May, and we will continue to press on these issues. I know you visited there yourself and have been very focused on it, and I am sure it is an area in which we can all work together.

Mr. SMITH. I thank you. Again, I may submit other questions on the Sudan, on the blasphemy laws in Pakistan, which are of increasing concern, and also on Malaysia. I know much of us are very concerned, and I know you are, too, about the situation there.

[The information referred to appears in the appendix.]

Mr. SMITH. I yield to my good friend, the gentlewoman from Georgia.

Ms. MCKINNEY. Thank you, Mr. Chairman. I only have three questions, but I hope to be brief for you.

The first one is on the Republic of South Africa, which has positively affirmed the rights of gays and lesbians to nondiscrimination in every aspect of South African society. This significantly places South Africa in front of the United States in protecting the civil and human rights of gays and lesbians. Doesn't that deserve some mention in the human rights report in South Africa?

Mr. KOH. Well, with regard to South Africa, I think all of us are excited by the transformation there, which is really an inspiration, typified and personified in President Mandela. I think the development of the South African constitutional court and its inspired leadership, President Chaskalson, and Richard Goldstone who was the war crimes tribunal prosecutor and now returned, have issued a number of landmark rulings integrating South African law with international human rights laws.

I agree that on the issues regarding sexual orientation, that ruling is one which takes an extremely forward-leaning posture, and it is a mark of the way in which this court has been path-breaking, and I think that it is a significant human rights development. I was not aware, and I will have to go back and check again, if there

is, indeed, no mention of it in the report. But we are very much focused, as you can tell, on the jurisprudence of constitutional courts which involve issues of international human rights law. And South African constitutional court has been a very interesting laboratory for the development of international human rights law as part of domestic law.

Ms. MCKINNEY. Thank you.

You also mentioned Kurdish cultural rights. My question is about Kurdish life.

Are Kurdish lives in Turkey less important than Albanian lives in Yugoslavia? We threatened to bomb to protect Kosovars, yet we sell Turkey the equipment to attack the Kurds. What should the relationship be between U.S. arms transfers and human rights in U.S. foreign policy?

Mr. KOH. Well, human rights in Kosovo and of the Kurds are equally our concern. Different measures are taken and employed, and I think this is an issue which is both the subject of negotiation and a subject of active dialog between the Administration and Congress.

I think on Kosovo, the Administration has made it clear that it wants to prevent a human rights disaster from occurring in a region which could lead to a conflagration that could consume the region. To say that we have these commitments in Kosovo, which I think will be an issue that legislators will have to also address and understand, "Is this just part of America's responsibility for human rights," does not in any way suggest that we have a lesser interest in human rights violations elsewhere.

The issue with regard to the Kurds, who are a dispersed peoples, who live in a number of different countries and are trying to preserve a cultural heritage, is something which has very much come to the spotlight in the last few weeks, and I think that it is something which has been of grave interest to us, the treatment of Kurds not just in Turkey, but also in Iraq where they were subject to a significant set of human rights abuses, an atrocious set of human rights abuse by Saddam Hussein. This is something that has been of great concern to the human rights community and the U.S. Government for a long period of time.

Ms. MCKINNEY. My final question is about the debt of our poorest countries in the world.

Isn't there a linkage between human rights and this indebtedness of the poorest countries in the world, and shouldn't an important aspect of our human rights advocacy include at a minimum U.S. forgiveness of poorest countries' bilateral debt?

Mr. KOH. Well, I think that is an issue that mixes economic policy and human rights policy. I think we have been extremely forthcoming in giving various kinds of financial assistance and support to countries which have shown human rights improvement and transitions to democracy. I think the examples that are clearest are the two big ones which are up before us right now: Indonesia and Nigeria. In Indonesia we have already committed, I believe, upwards of \$23 million in U.S. aid. In Nigeria a very substantial commitment has been made by the U.S. Government.

I think it is very much a question which is again a subject of partnership between the Congress and the executive branch. Con-

gress has the power of the purse. Congress is also deeply committed to human rights. Congress has power under the Constitution over issues of foreign commerce, and I think Congress can set directives in this area as well.

Ms. MCKINNEY. I look forward to working with you on a particular piece of legislation that I have on the debt situation as well.

Mr. Chairman, that concludes my questioning.

Mr. SMITH. Thank you very much.

The Chair recognizes the general counsel of our Subcommittee and staff director, Grover Joseph Rees.

Mr. REES. I just have one question, to follow up on the Chairman's question about people we return to dangerous countries. There is a heightened responsibility when you have an agreement—and I have to admit that in a former life I learned to call it the Clinton-Castro agreement from a Yale law professor at the time—but the agreement we signed does put us into a law enforcement partnership with a totalitarian regime. When we do that, it seems to me we have got to commit extra resources to making sure that we know exactly what happens to every person we send back, and that we stop doing it if they wrongly harm one person, because we are complicitous in what they do. When we turn somebody over to Fidel Castro or to China, as we have done, or to Vietnam, as we have done, we sometimes do a halfway job or a too-clever-by-half job of monitoring. We say, well, if they harmed them, it probably was a nonpolitical bullet, it probably was for some good reason. And if you look carefully at that time, at UNHCR monitoring in Vietnam, there is even a chilling one-liner in the report that says, well, yeah, one of the guys we sent back who was eligible for one of our refugee programs, we sent him back; he was arrested and executed. He was executed for allegedly having blown up an ammunition dump before he left. There are real questions raised about whether we should have sent him back to Vietnam under those circumstances.

So in general the part about Vietnam, even if it only says some of the 13,000 people—and there were actually many more who, in fact, were involuntarily returned—but even if it says “some of them” were criminals instead of what it said in the preliminary draft that we received, which is “they” were criminals, what does that say to the 12,000-plus who were not criminals? Isn't that just an embarrassment and an awful thing to put in a report when you say, we returned 13,000 people to Vietnam, and some of them were criminals? Some of them probably did lots of bad things. Some of the people killed in the Holocaust might have been criminals, but it is not really relevant, and that is not why these people were returned.

I guess rather than have an extensive discussion here, I know I speak for the Chairman in asking your commitment because we do know your sensitivity and your expertise on refugee issues—that your office will be involved in assessing the human rights conditions and especially what happens to people we return. It is just too important to leave to the antifraud people, who are doing a very good job at what they do, or to some of the regional people. We need the human rights experts to tell us what happens when we send somebody back to Vietnam or Haiti or Cuba or China or

a country like that, and we hope your office and you personally will be deeply involved in that.

Mr. KOH. Well, Mr. Rees, I think you know from our own past governmental service that it is a complicated teamwork relationship between our Bureau, the Bureau of Population, Refugees and Migration, and the Immigration and Naturalization Service on these kinds of questions. The purpose of these reports and asylum profiles that are developed out of the reports is to give a factual basis precisely to show why we have concerns about people being returned, that they are being returned to conditions of persecution. The point that you made about Cuban refugees and the concern that they be rigorously protected is one that I made in litigation against the U.S. Government as a private citizen, and so on that point clearly you are preaching to the converted.

In my current position, what I attempt to do, and through these reports, is to tell the facts, and just the the facts, and not to spin the facts. And if we find inaccuracies or factual inaccuracies, we will correct them. I have devoted a tremendous amount of time to going through these reports and trying to ensure their accuracy. It is a massive job, but you do have my commitment that they tell the truth. And how these reports will be used in the governmental process is then the subject of other kinds of legal interactions, and I have a commitment also to do that and to monitor that from my current job, to make sure that these profiles and these reports are used fairly with respect to refugees.

Mr. REES. Thank you.

Mr. SMITH. Thank you, Mr. Rees.

Secretary Koh, thank you again for your excellent testimony. Your deep commitment to human rights and to your much overworked staff, we are very appreciative of their fine work as well. So I wish you well on your trip, and we look forward to hearing from you when you get back.

Mr. KOH. Thank you.

Mr. SMITH. I would like to ask our second panel if they would proceed to the witness table, beginning with Stephen Rickard, who is the Washington Office Director for Amnesty International. Previously Mr. Rickard served as the Senior Advisor of South Asian Affairs in the Department of State, as well as a professional staff member for the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs.

Jerry Fowler is legislative counsel for the Lawyers Committee for Human Rights, where he works on a broad array of issues, including promoting human rights and the rule of law in China and Turkey, and protecting the rights of asylum seekers in the United States. Mr. Fowler received his undergraduate degree from Princeton University and his law degree from Stanford University.

Nina Shea is the Director of the Center for Religious Freedom at Freedom House. As a lawyer she has spent the past 20 years specializing in international human rights issues. For the past 12 years, she has focused exclusively on the issue of religious persecution and was a catalyst in promoting religious persecution reform legislation that passed last year in the Congress, and we are very grateful for that. Ms. Shea is the author of "In The Lion's Den," a book detailing the persecution of Christians around the world.

Finally, Reed Brody has been the Advocacy Director for Human Rights Watch since 1998. Mr. Brody has also served as Deputy Chief of the U.N. Secretary General's investigative team in the Democratic Republic of Congo, Director of the Human Rights Division of the U.N. Observer Mission in El Salvador, and Executive Director of the Human Rights Local.

Mr. Rickard, if you would begin. Your statements will be made a part of the record. Please proceed.

STATEMENT OF STEPHEN RICKARD, DIRECTOR, WASHINGTON OFFICE, AMNESTY INTERNATIONAL USA

Mr. RICKARD. Mr. Chairman, thank you very much for inviting Amnesty to testify once again this year before your Subcommittee on this important topic. Once again, I commend you for conducting this oversight hearing, and I would request that the full text of my statement will be put in the record.

Mr. SMITH. Without objection.

Mr. RICKARD. I would also like to at this point publicly welcome to his post Assistant Secretary Koh; this is his first of these hearings, and to express our appreciation for the dedicated work of his predecessor, John Shattuck. Whatever quarrels we have with the Administration, and I will discuss some of them; we know that there are many dedicated and unsung U.S. officials working hard to combat human rights violations; they are hard at work throughout the building, as it is known in the U.S. Embassies abroad, and we will never forget that.

As is customary at this hearing, Mr. Chairman, we received copies of Country Reports very late last night. A full examination will take time. What I would like to offer today are some first impressions, and particularly I would like to focus on what I would like to call the litmus tests for candor, a small number of points in the reports where there is likely that there was the greatest pressure, whether psychological, political, internal or external, to shade the truth. It may be just as important to be accurate and comprehensive in assessing the human rights situation in the Seychelles Islands as anywhere else, but there is probably more internal and external pressure to see the glass as more than half full in China. So with your permission, I will focus on a small number of litmus tests.

I will focus on a small number, as I said.

China. The China report has become quite simply the bellwether of the Country Reports, the "canary in the coal mine" warning whenever the toxic effects of policy infiltrate and undermine the objectivity of human rights reporting. Particularly in the introduction section, how does the Administration portray the overall human rights situation in China?

Two years ago the Administration set for itself an outstanding benchmark for candor, stating elegantly and accurately: "all public dissent against party and government was effectively silenced." Last year was very different. It was obvious that there was a concerted effort to highlight every positive development and to remove any similarly damning sound bite from the introduction. How did they do this year?

Turkey. With two U.S. companies competing for a \$3.5 billion helicopter sale in Turkey, did the Administration soft-pedal human rights criticisms?

Israel and the Palestinian Authority. Notwithstanding President Clinton's enormous personal investment in the Wye Agreement, was the Administration candid about the use of torture by the Palestinian Authority and the Israeli Government?

Nigeria. Was the Administration candid about continuing problems in Nigeria under the new regime, and open about the role of U.S. corporations there?

Colombia. Is the report clear and explicit about the links between Colombian military and paramilitary organizations despite the pressure to increase military cooperation with Colombia to combat narcotics trafficking?

Mexico. Is the report more candid than the annual drug certification process in describing problems of corruption, the lack of rule of law, and the complete impunity from prosecution enjoyed by officials who use torture?

While I will discuss those litmus tests, I would like to make a few initial observations. Every year when we meet to discuss the reports, I begin by making two points, and with apologies to my colleagues and to you, Mr. Chairman, if you had to hear this before, let me say again that while the reports are obviously a chronicle of brutality, they are also a testament to courage. They tell us that people of every culture and on every continent were prepared to struggle for human dignity and freedom, even at the risk of death. There is only one decent response to that struggle for freedom and dignity, and that is vigorous support.

The second point I make every year, borrowing a line from my predecessor, is that human rights is still unfortunately an island off the mainland of U.S. foreign policy. President Clinton's human rights policy remains maddeningly inconsistent. We continue to appreciate his and Secretary Albright's strong support for the Rwanda and Bosnia war crimes tribunals. That praise is tempered, however, by deep disappointment over the U.S. failure to join virtually every U.S. ally and the overwhelming majority of nations on earth in supporting the creation of a permanent international criminal court. It is tempered by the Administration's silence over the possibility of bringing General Pinochet to trial for crimes against humanity, including the alleged complicity in the murder of a U.S. citizen right here in the Nation's Capital.

The United States provides substantial funds for demining activities, but next Monday, March 1st, most of the rest of the world will celebrate the entry into force of a new treaty banning all land mines, while the United States sits on the sidelines. Even worse, according to press reports, the Administration is considering requesting \$50 million to develop new land mines. The Administration claims to be concerned about the 300,000 child soldiers around the globe, but the United States is staunchly opposing the international effort to ban the recruiting of soldiers under the age of 18.

I would, however, like to highlight two positive steps taken by the Administration in 1998. The first was that on the 50th anniversary of the Universal Declaration of Human Rights, President Clinton issued an important Executive Order creating an interagency

working group on the implementation of human rights treaties the United States has ratified.

Why is this important? In a sense, it shouldn't be. The United States has ratified these treaties after due consideration and advice and consent of the Senate; it has promised our treaty partners that we will live up to our obligations under these treaties. But the Executive Order is important because it requires a high-level commitment from the U.S. Government and a process for implementation of those previous treaties, which we have never had. That is why President Clinton's Executive Order is an important statement about the integrity of the United States and the Congress in fulfilling the pledges that we made when we ratified these treaties.

Second, as I noted last year, the Congress has taken an extremely important step in building a bridge between that island of human rights off the mainland and the mainland of U.S. foreign policy by passing the Leahy law, which links, as a matter of law, human rights reporting and U.S. assistance by prohibiting U.S. assistance to foreign security force units which are credibly alleged to have engaged in gross human rights violations.

I noticed a substantial number of references to the Leahy law in Secretary Koh's answers to questions, and I think that is a clear illustration of the fact that Congress is tying the knowledge of the administration of human rights abuses to its conduct in parceling out U.S. aid, and that is a dramatic step in the right direction. Specifically, we strongly applaud the decision of Secretary of State Albright to refuse to permit U.S. tax dollars to subsidize the sale of armored personnel carriers to Turkish national police units in 11 provinces where they are known to be committing gross human rights violations.

With your indulgence, Mr. Chairman, I would like to make a few recommendations about how the Bureau of Democracy, Human Rights and Labor could be strengthened and how we could tie human rights reporting even closer to U.S. policy.

First, we could guarantee the DRL receives an adequate budget to carry out its operations. I have suggested a half a percent of the State Department budget. Mr. Chairman, I understand that you made similar remarks, which I think are the least that could be expected to carry out this function, and yet it would represent a significant increase in overall funding.

Second, we should take 1 percent of all U.S. military aid to fund a foreign aid accountability project. Simply put, if we are going to give people guns, helicopters and military training, we ought to take one penny out of the dollar to find out what they are doing with them.

Third, we should create a formal process to implement the Leahy law. The Department should hold quarterly Leahy law implementation hearings, chaired by the Assistant Secretary for Human Rights, to review overall implementation and functioning of the law, as well as regional subcommittees to examine the known human rights information about units in each region of the world.

Next, the DRL should comment on human rights reporting, from the field, positively and negatively. They rely on it, they ought to be entitled to comment on whether or not they are getting the kind of raw data that they need to do these reports.

Finally, we would recommend that the Assistant Secretary be given the budget and flexibility to hire a number of noncareer officers with specialized expertise in human rights.

I would like to take just a moment to comment about the fact that Amnesty is running at the moment a year-long campaign about human rights issues in the United States. For some, the idea of raising human rights concerns about the United States provokes a visceral hostility, which is as understandable from an emotional point of view as it is unwarranted from a substantive one. Amnesty's recommendations to the United States are in essence a collection of domestic and foreign policy issues that have been debated and discussed in Congress and elsewhere for years. They have to do with U.S. arms exports, the U.S. role in multilateral negotiations and U.S. military training programs. They have to do with police brutality, the death penalty, the treatment of women in prison, and the access of juvenile detainees to mental health facilities. No one would deny that these are legitimate issues, and no one would seriously deny that there have been problems in these areas in the United States, and yet if you apply the term "human rights violations" to these problems, some people are suddenly outraged.

Unfortunately, there are at least two areas of concern where the United States is, in fact, the world leader, if that is the appropriate term. The first area of concern is that the United States is, in fact, the world's leader in arms exports. One study found that U.S. arms were in use in all but 3 of 42 ongoing conflicts around the world. We strongly urge the House to again adopt the McKinney Code of Conduct and would urge the Senate to follow its lead and the Clinton Administration to strongly support the Code, and we strongly appreciate the efforts of Congresswoman McKinney in this area.

The other area where the United States sadly leads the world is in the execution of persons for offenses they committed when they were juveniles. The United States has executed more people for juvenile offenses, 15, than the rest of the world combined.

Now, I will just briefly touch on those litmus tests of candor.

China. To cut to the chase, the introduction to the 1998 report takes a welcome step back toward candor. In a sense, the Chinese Government left the Administration little choice, because the human rights trends since President Clinton's trip last year have been so bad. But whatever the reason, the introduction to the report is far more candid this year than last, and that is a welcome improvement.

Turkey. As I noted last year, Secretary Albright stuck to her guns and demonstrated strong fidelity to enforcing the Leahy law, but that sale involved \$43 million. Would the Department stick to its guns, no pun intended, when the human rights reporting would effectively prohibit a \$3.5 billion helicopter sale? The evidence from this year's report suggests that the Department did not back away. This report is a terrifying, a chilling portrayal of human rights violations in Turkey, which ought to effectively bar the Administration from going forward with this sale.

Nigeria. The report is a strong catalog of offenses of the prior regime, but it tends to understate the problems that remain. Particularly the report is a little coy in discussing the role of corporations

in Nigeria, and in one particular instance, there is a reference to an international oil company that ferried Nigerian troops to a platform where nonviolent protesters were subsequently killed. The Department knows, and I will state for the record, that the company involved was Chevron Corporation. If we are going to be candid about foreign governments, we ought to be candid about our own companies.

Israel and the Palestinian Authority. There is a very important change in this year's report, and we are checking to see whether or not this has ever been the case before. We applaud the Administration in this year's report for stating in its own voice that Israeli troops on occasions not only abuse, but torture Palestinian suspects and detainees. In the past, this criticism has been attributed to other organizations or other individuals. That is a welcome change. By comparison, the report contains a long discussion about the issue of Israel's effort to redefine forms of torture as moderate physical pressure. It notes that others consider these offenses torturous, but it fails to state the U.S. position on this issue.

Many countries use gross forms of torture, but one government in the world is trying to redefine torture to openly permit forms of torture. That is a unique challenge to the human rights framework, and the United States should be unequivocal in its position on it.

Colombia. The report continues the trends of past years by being increasingly open and clear about the links between the Colombian military and paramilitary forces. It states in its own voice that there are areas where the paramilitaries operate with obvious complicity of the Colombian military. This is a welcome development.

Mexico. Unfortunately the relative candor of the Colombian report, including the increased use of the Department's own voice, is in sharp contrast to the report on Mexico. Although the report details a sorry human rights record in some detail, the report demonstrates a reluctance to directly criticize the Mexican Government in the Department's own voice, particularly in the section on disappearances.

In conclusion, I would like to thank you again, Mr. Chairman, for this opportunity to testify and for your holding this important hearing. I look forward to answering your questions, along with the other witnesses.

[The prepared statement of Mr. Rickard appears in the appendix.]

Mr. SMITH. Thank you very much for that excellent testimony and for the good work that you do. As a matter of fact, sitting here looking at the four of you—and there are others from human rights organizations that unfortunately we could not accommodate, but who are leaders in the field; it reminded me of when Secretary Koh was here, and his background, that any one of you could be and maybe will be someday in his position on the government side. And I think it is very important that more and more of the responsible voices like yourselves get into these positions so, inside or outside, you are making a difference. But excellent testimony. Thank you.

Mr. SMITH. Mr. Fowler.

**STATEMENT OF JERRY FOWLER, LEGISLATIVE COUNSEL,
LAWYERS COMMITTEE FOR HUMAN RIGHTS**

Mr. FOWLER. Thank you, Mr. Chairman.

I would echo Steve's comments about Secretary Koh and what you have just said. What a great asset it is to have him in the position that he is in.

I would like to thank you for convening this hearing and inviting us to share our perspectives on this year's Country Reports, and I especially would like to welcome Ms. McKinney as the Ranking Minority Member, and Mr. Delahunt, and I look forward to working with you and your staffs in the years to come.

My name is Jerry Fowler, and I am legislative counsel for the Lawyers Committee For Human Rights. The Lawyers Committee's particular concern is how human rights can be protected in a lasting way by advancing international law and legal institutions, by working to build structural guarantees for human rights in national legal systems, and by assisting and cooperating with lawyers and other human rights advocates who are the frontline defenders of human rights at the local level.

The quality and accuracy of the Country Reports have been of great concern to the Lawyers Committee since the Department of State first issued them 20 years ago. For many years, we published an annual critique of the reports, and we continue to believe that they require and benefit from critical input by the nongovernmental human rights community, both in the United States and in the countries where human rights abuses occur.

In recent years we are happy to report that we have witnessed a steady improvement in the objectivity and comprehensiveness of the reports, and we respect the professionalism and diligence of the many people involved in their production.

The value of the Country Reports is directly proportional to their objectivity, and for that reason we have always placed a high premium on their use of dispassionate reporting criteria, based on the application of clear and consistent legal standards. The great virtue of international human rights law lies in its neutrality. It embodies a set of agreed upon standards and commands a growing international consensus. It is of universal application. Politicization is its greatest enemy. Although the reports have improved over the years, we have always been particularly alert to two kinds of politicization which have often undermined the integrity of the Country Reports.

The first of these is the tendency to shield U.S. strategic allies from plain-spoken criticism, even when the record of their misdeeds is clear. This has manifested itself in a variety of subtle and not so subtle ways, including the selective reporting of abuses, the use of editorial and linguistic devices to conceal culpability, and a failure to hold governments and nongovernmental entities to a single universal standard of conduct.

The second concern is that the Country Reports may themselves become a politicized expression of conflicting interests within the U.S. Government over human rights policy. There are two visible symptoms of this. One is when the reports are internally contradictory; the other is when a sharp discrepancy is apparent between the message delivered by the reports, especially in their introduc-

tory language, and the perception of U.S. policy toward states that have been identified as serious human rights violators.

The most negative consequence of this inconsistency is that it conveys the impression that concern for human rights is the function of one small part of the foreign policy bureaucracy, and not necessarily of the Administration as a whole. It is entirely appropriate, of course, that Secretary Koh's Bureau should act as the focal point of the human rights effort, but it is not appropriate, and it is often damaging to broader U.S. interests, if his Bureau's voice is seen to be marginalized and if other countries conclude that human rights are a fringe concern, not shared by other government agencies, such as the Departments of Defense and of Commerce. This is a serious policy challenge, and its solution, of course, lies well beyond the scope of the authors of the Country Reports and can only be addressed through a concerted interagency approach to human rights with strong direction from the White House.

The reason why the "Country Reports" are prone to politicization is because they have become so influential. We believe that the time is now ripe for this influence to be used more assertively. The comments we have made to this point in our testimony are, in a sense, perennial ones, but they take on special salience in light of the events that took place during 1998.

While the introduction to the reports provides a numbing reminder of the gross human rights violations that continue to blight all too many countries, and the Members of the Subcommittee have already touched on many of those in the questioning of Secretary Koh, 1998 was at the same time a landmark year for the development of the international human rights movement. The year had numerous high points, not merely symbolic ones, such as the 50th anniversary of the Universal Declaration of Human Rights, but concrete and practical advances, such as the conclusion of a treaty to create a permanent international criminal court with jurisdiction over crimes against humanity; efforts by states to assert jurisdiction over individuals accused of the most egregious human rights violations, such as Chilean Senator Augusto Pinochet; and the adoption by the U.N. General Assembly in December of the Declaration on Human Rights Defenders.

In sum, the past year demonstrated in a variety of ways that human rights law is moving slowly, but it is moving from the realm of aspiration to the realm of enforceable reality.

Previous editions of the "Country Reports" have spoken eloquently of the need to build international institutions of justice, and of the crucial role that the United States can play in strengthening multilateral efforts to expand the reach of international law and to end impunity for human rights violators. Disappointingly, the introduction to this year's Country Reports declines to address these larger historical trends, which were so vividly apparent during 1998. We regard this as a missed opportunity, one that reflects a broader ambivalence in U.S. human rights policy that Steve touched on.

I would like to highlight three reports briefly. In China, Turkey and Serbia-Montenegro, especially in relation to the province of Kosovo, widespread and persistent human rights violations continued throughout 1998. The conduct of each of these three states pre-

sents a fundamental challenge to the integrity of the international human rights treaty regime and of the institutions that the international community has established to enforce compliance with human rights norms, and in each instance the response by U.S. policymakers will have profound bilateral, regional and even global ramifications.

Turning first to China, the China report speaks bluntly and accurately of the renewed display of intolerance of political dissent by the Chinese authorities during 1998. The report properly focuses on the crackdown after November on those attempting to register an alternative political party, and observes that their closed trials, "flagrantly violated due process." To its credit, the report is not content merely to deplore these failures of due process, but discusses at some length the systemic legal feelings that account for them.

Chairman Smith has noted several other concerns with the report on China, and my written testimony highlights several, but let me emphasize one right now. Given the emphasis on systemic legal problems in China, the report provides a surprisingly sketchy discussion of recently promulgated regulations on the nongovernmental sector in China. In its flat and technical language, the report appears to have no opinion on the degree to which these regulations impose unreasonable burdens on civil society in China or contravene existing international norms on freedom of association.

As China struggles with many enormous problems—economic problems, social problems, and environmental problems—nothing is more important to its future stability than freedom of association and the free development of critical voices in the nongovernmental sector. Future reports should rectify this weakness.

Unfortunately, the superficial treatment of freedom of association, especially for domestic human rights advocates, remains a persistent weakness of many of the Country Reports. It is particularly disappointing that this should remain the case in the year that the General Assembly adopted the Declaration on Human Rights Defenders, which breaks new ground in articulating an international consensus on the content of the right to freedom of association.

Turning to Turkey, the report on Turkey is comprehensive and well-informed, and it documents widespread and continuing human rights problems. But it may be faulted for not giving sufficient attention to the failure, one might say the latest failure, of the Turkish Government to carry out promised and necessary reforms in the human rights field. When then Prime Minister Mesut Yilmaz came to the United States in December 1997, he promised President Clinton and other American officials that 1998 would be a year of human rights in Turkey. He expressed that his government was committed to reforming the penal procedure law; to revising laws which penalize nonviolent expression, under which, incidentally, human rights activists continue to be prosecuted and convicted; and to providing effective safeguards against torture. Almost without exception, these promises remain unfulfilled.

While we may recognize that the Prime Minister was speaking only as the leader of a minority coalition government, it must be noted that successive Turkish Governments have failed in their

promises to implement far-reaching reforms in human rights conditions in Turkey.

The U.S. Government must insist that the Turkish authorities achieve human rights progress, the progress to which they have committed themselves. Such progress must be seen as a necessary condition to further development of the positive relationship between the U.S. and Turkish Governments.

Finally, turning to Serbia-Montenegro. The Country Reports provide a generally accurate picture of the dismal human rights situation in that country, and rightfully concludes that the government's human rights record worsened significantly in 1998. What the report fails to explain adequately is the broader political context of increased repression and the failure of the United States and the international community to anticipate a deterioration in the human rights situation.

It has been clear for years now that the Government of President Milosevic is a threat to the stability of the region. Rather than making human rights the focal point of any negotiations with him, the United States and other actors have set aside these concerns in the pursuit of immediate, politically expedient goals.

The report does mention Serbia's failure to cooperate with the International Criminal Tribunal for the former Yugoslavia, the ICTY, but it does not sufficiently explain the binding nature of Serbia's obligations to comply or the failure of the United States and other members of the international community to enforce those obligations. It is well known that a clause on Serbia's duty to cooperate with the ICTY was dropped from the October 1998 agreement on Kosovo between Milosevic and U.S. Special Envoy Richard Holbrooke. The Administration should have acknowledged this development and must ensure that Milosevic's obligation to cooperate is not bargained away in the ongoing diplomatic efforts to resolve the Kosovo crisis.

I was heartened to hear Secretary Koh's comment that language about the tribunal is in the agreement that is on the table in Rambouillet, and I hope that the United States will see that it remains there.

In conclusion, these comments represent an initial reaction to the Country Reports on the day of their release. The Lawyers Committee will look forward eagerly to a more substantive discussion of the report with Administration officials and with the Subcommittee and other interested Members of Congress once we have had the opportunity to carry out a more extensive review of their content. Nonetheless, even a brief examination of a few key countries makes apparent the general accuracy and professionalism of the Country Reports and their enormous contribution to our knowledge of human rights conditions around the world, but at the same time underscores the stubborn problem of partial or politicized reporting which continues to prevent the Country Reports from reaching their fullest potential.

Thank you very much.

Mr. SMITH. Thank you for your excellent testimony. We look forward to your additional comments on other aspects. All of us obviously are laboring under that same time restraint of having just gotten them last night, but I think your points are very well taken.

[The prepared statement of Mr. Fowler appears in the appendix.]

Mr. SMITH. I would like to ask Nina Shea if she would speak, and I would just point out, I didn't mention this in the opening comments, but Nina is working on the newly formed Commission on Religious Persecution, which she helped create. So nice to have you.

**STATEMENT OF NINA SHEA, DIRECTOR, CENTER FOR
RELIGIOUS FREEDOM, FREEDOM HOUSE**

Ms. SHEA. Thank you very much, Mr. Chairman and Members of the Committee. I am deeply honored to be asked today to testify on these important reports.

In 1979, the United States was caught unawares by the Shiite revolution in Iran, and my colleague, Dr. Paul Marshall, in his book "Their Blood Cries Out," notes that in 1978 and 1979, there was only one proposal within the CIA to study the ideas of Ayatollah Khomeini and his movement, and that one proposal was turned down on the basis that it was mere sociology. The thinking was that religion didn't have the power to mobilize or revolutionize or change a society, and therefore, religion wasn't important, so we missed it on Iran.

I am heartened that religion is now taken seriously in our reporting and in our investigations, and that is a tribute in large measure to your work, Mr. Chairman, in bringing this issue before the Committee and insisting that the State Department do take it seriously.

What we are seeing today on the religion front is very disturbing in the sense that three of the four largest countries in the world are experiencing a trend line of deterioration, and that is China, India and Indonesia, two of which, India and Indonesia, have a reputation for being tolerant in the area of religion. They may have other human rights problems in past years, but generally, religious minorities had been able to practice their religions. This is getting increasingly difficult in those places, and may even have a world impact if the trend continues.

I received the reports only a few hours ago, and so there is no attempt here to be comprehensive. I am going to be looking at some of the countries that are on the top of our list at the Center for Religious Freedom at Freedom House.

Overall, I find the reports very useful, and they improved each year on religion, and it is really, I think, a sign of the commitment and industry at the embassy level and also in the Bureau of Human Rights. Having been on the advisory committee to the Secretary of State for the last 2 years, I have seen firsthand just how hard working our civil servants and political appointees are at the Bureau. It is especially difficult to capture the religious issue, because these are people who are often marginalized in their societies under severe persecution in many cases, and even some are reluctant to come forward and speak to embassy officials. I think on the whole it is a good job.

I am going to start, though, with a country that is not a good job; that is, in my view, an utter failure. That is the country of Sudan. There is a genocide going on in Sudan. Two million people have been killed. The U.S. Committee for Refugees issued a report in

December 1998 called "Quantifying the Genocide." It has the details, the documentations of all of the situations occurring over the last 15 years or so. More people have been killed in Sudan than all the victims in Bosnia, Kosovo and Rwanda combined. There have been more killed in Sudan now than in the killing fields of Cambodia. The Refugee Committee estimates that more than 1.9 million people have been killed. Most of these people, the vast majority, are civilians from the southern area and the Nuba Mountains. These are people who are mostly Christian and non-Muslim. This is barely addressed in this report.

Just in from the Vatican press agency *Fides* this week is a press release saying that in the province of Bahr al-Ghazal alone in southern Sudan, 700 people every day are dying of starvation from, as Senator Frist put it, calculated starvation, manipulation of food, by the government's refusal to allow relief agencies to make the humanitarian deliveries. In fact, we go along with an abominable U.N. policy of allowing Khartoum to veto when, where and if food aid can be delivered. And even the size of the aircraft must meet the approval of Khartoum, the very regime that is trying to annihilate these people.

There is almost no inkling of this in the report. There is no mention of the fact that 2.5 million people were brought to the brink of starvation in 1998 by the Government of Sudan's refusal to allow any of these relief flights for 2 months. Tens of thousands did die of starvation. In my own opinion, Mr. Chairman, instead of dropping bombs, we should be dropping food in Sudan in a Berlin-style airlift.

Slavery is another issue that I think is very distorted in this report. At one point the reports talk about "alleged" slave markets; they also talk about forced labor, for some reason, instead of using the word "slavery." When it comes to children, they talk about "hundreds" of children and women, when in fact it is tens of thousands of women and children who have been taken into slavery. This has been documented. Dan Rather did a two-part series of CBS Evening News. Christian Solidarity International and Christian Solidarity Worldwide have bought back hundreds of slaves, thousands of slaves over the years. It is beyond dispute.

These people are not just used as domestic servants, as the report states, but also as concubines, as field hands. There is a very grim joke going around southern Sudan, and that is that there are three classes of tickets on the Khartoum railway, and that is first class, second class and kiddie class, and the reference to kiddie class is the fact that on the way north, a northward-bound train hauls three windowless freight cars full of children going to northern slave markets.

The report also talks about camps for homeless children. We at the Center for Religious Freedom did a study on this, and these are not in many cases homeless children at all. They are abducted from their families. They are indoctrinated in Islam and their name changed to Arabic ones if they are Christian and animist, and then they are sent into battle against their own people.

Bombings. The report makes a very twisted comment about the bombings saying that the "bombings are so inaccurate that they put civilians at risk;" in fact, civilians are the targets. The clearly

marked hospitals, refugee camps, the largest refugee camp in Sudan was bombed last year. One hospital was bombed four times. It goes on and on.

Bishop Macamin Gasiss, the Catholic bishop, brought a group of Americans with him to Sudan this past Christmas, and they came back witnessing the fact that the mass was almost bombed, government planes were bombing the villages. People had to camouflage their roofs, their houses, their schools, themselves, hiding under the trees. There are no bomb shelters, there is no place to run, because the government bombers were targeting them, and they are dropping cluster bombs and barrel bombs, which are intended to do maximum damage to civilians.

The report also fails to make the connection that the massive killing has a basis in religion; that those rebels took up arms, did so because the government in 1983, the prior government, decreed Sharia'a and breached the autonomy agreement in the south. There is a forcible Islamization going on.

This religious oppression has even appeared in the north now. Two Catholic priests, including the Chancellor of the Archdiocese of Khartoum, Father Hillary Boma and his subordinate, Father Lino Sebit (whose name is spelled wrong in the report), are on trial now before a closed military court on trumped-up charges (*The Washington Post* had a very thorough account of that in December), and face possible crucifixion. They are also on trial, by the way, with 18 other Christians.

There is mention of race being a factor in this report, and, yes, race is a factor, but I think even more so is the fact that religion is involved. I realize that we have no embassy in Sudan, but there are other ways of getting this information. Our Website has an extensive bibliography on Sudan. Christian Solidarity International and Christian Solidarity Worldwide are invaluable resources.

Mr. Koh talked about the importance of building a multilateral condemnation of these countries that are gross human rights violators. Well, we are not doing that. We have no policy. We have defined Sudan, framed it only in narrow, self-interested terms of terrorism, which is not going to build any world opprobrium on a level that we need, and we have to start saying and reporting accurately what is going on, despite the limitations of not having diplomatic relations.

Mr. Chairman, let me just conclude on Sudan before I go on to the other countries by saying that there is a movement among college students in the United States now for a Campaign of Conscience on Sudan to try to bring this about. These students are so concerned about what is happening and the fact that no one is talking about it. They have a Campaign; they are having protests to bring this to the media attention.

Regarding China, on religion, it is a very good report. It is much better than last year's. It is much more detailed. In a way, it is almost a template in the religion section for what I like to see in other countries. It goes into a great deal of depth. The only flaws I would find with it is that it mentions that there are crackdowns in "certain areas." I think it would give a greater understanding of what is going on in China if it mentioned that these areas were Hebei Province and Henan Province, the two major Christian

areas: Hebai for Catholics, Henan for Protestants. It is no accident the crackdown is going on in those areas because that is where the heavy concentration of underground churches are.

It mentions there is a registration process but does not mention the fact that registration means that you can't speak about certain substantive issues of religion. So that there is a real interference in the substance of religion as well as just being a formal procedure.

Mr. SMITH. Will you yield on that? By that do you mean that whole parts of the Bible are excluded?

Ms. SHAY. That is right. Gifts of the Spirit, the Second Coming of Christ. There are many issues that are just not allowed to be discussed, including Catholic dogma, Christian dogma.

Also in the birth control section, I want to note that *The New York Times* reported recently that, according to the official statistics of China at the end of 1998, now just published, the growth rate and birth rates are less than 1 percent for the first time. *The New York Times* concluded it was a stringent birth control campaign of the government that brought this about.

Also, in Tibet, I want to mention that there is no discussion of the economic exploitation of Tibet. There is some discussion of how the government is trying to improve Tibet, but no discussion of how the resources are being taken out of Tibet. The basic problem with China is that we need to apply the facts that the report has had documented to our foreign policy, and I really do urge the U.S. Government to at least raise China and do everything it can to get our allies to raise China and go along with a resolution at the U.N. Human Rights Commission.

I would like to turn to Egypt. On the whole, there is some very good coverage and analysis of the El-Kosheh incident where 1,200 Christians were arrested and some brutally tortured by Egyptian police in a 1-month period last year. It was good coverage. However, it does not mention that the police officers charged with torturing the Christians were not punished. None of them were punished. At least one was promoted. As Dr. Selim Naguile who is the spokesman for the International Coptic Federation said, "The problems of Copts in Egypt are much larger than the El-Kosheh incident." Copts face systematic persecution and discrimination, both in some instances by the government and also especially by the extremists, by the terrorists.

There is a mosque closing this year. The report mentions it but doesn't mention any of the pathos surrounding it; that there were 7 tanks brought in and it was really only under congressional pressure that this church was reopened.

We have sent two fact-finding missions to Egypt this past year and got to know the situation firsthand, and Joseph Assad who is on our staff and is an Egyptian expert is himself Egyptian. And we were disturbed that we found that many Christians reported that they were not able to take their complaint to the U.S. Embassy in Cairo and that occurred in several cases that we documented.

I would be glad to make available to you the sort of very famous cases, very significant cases of kidnappings and forcible conversions to Islam, where the U.S. Embassy officials just simply closed the door on their face and said no, they would not meet with them. So

I think that is a problem; that our embassy in Cairo is refusing to meet with persecuted Christians who want to meet with them.

In India there have been over a hundred attacks, mainly in Gujerat in western India, this year against Christians. There have been killings of priests and ministers, a Protestant minister and his small boys. I think it would have been helpful for the report to give some perspective, such as the fact that there have been more attacks last year than the past 50 years combined. You really see a trend. And the report warns of possible clashes between Hindus and Muslims, but doesn't make a parallel statement which a Protestant pastor made to us, who is from there, saying that he fears an inevitable and large-scale clash between Hindus and Christians by the end of this year. I think that is something to watch.

There are some very good resources on India, particularly an ecumenical group within India which has extensive documentation of all the incidents.

Indonesia has been a tolerant society regarding religious minorities though it has had other human rights problems and now we fear that that is changing. There is the anti-Chinese persecution. Societal attacks have been real, but there are also anti-Christian attacks separate from the Chinese attacks. And in the first 7 months of 1998, there have been 83 attacks and burnings of churches and schools. Lately there have been riots, religious conflict; dozens have been killed on both sides as Muslims and Christians have fought each other. Some moderate Muslims have been targeted, and the Christians in Indonesia fear that riot provocateurs are moving from island to island, stirring up religious tension in order to destabilize the interim government and to impose an Islamic state, which would be a serious human rights development.

I will just conclude on Burma, Mr. Chairman. The report mentions the privileges that the government gives to Buddhists, but doesn't mention that Buddhists themselves are restricted so that not even the Buddhists are free in Burma. It is a very restricted situation across the board for all religions. Thank you very much.

Mr. SMITH. Thank you very much, Ms. Shea. Our final witness, Mr. Brody.

STATEMENT OF REED BRODY, ADVOCACY DIRECTOR, HUMAN RIGHTS WATCH

Mr. BRODY. Thank you very much, Chairman Smith. My name is Reed Brody, and I am the Advocacy Director of Human Rights Watch. I have an advantage over my colleagues because I have had 10 more minutes to read the reports.

I would like to use this opportunity to stress the importance of linking these generally accurate assessments of human rights conditions around the world to U.S. policies on trade, aid, and military sales in ways that will address the need to push for more vigorous protection of human rights the other 364 days of the year.

At the outset, though, I want to commend the State Department's Democracy, Labor, and Human Rights Bureau and the women and men in the U.S. embassies who have contributed to this important and impressive document. Under the leadership of

Assistant Secretaries John Shattuck and Harold Koh—whose appointment we warmly welcome and who is not anymore on the Human Rights Watch Board but it takes a while to change the letterhead and he will get our reports even when he is not on our Board—the Country Reports have come much closer to meeting the original intent of Congress by placing on the record, in a generally accurate and comprehensive manner, the practices of allied and adversary government alike.

If the good news is the generally high quality of the reports as a document of record, the bad news is that for all too many countries, it is the only occasion on which human rights concerns are highlighted by the U.S. Government.

Turning to this year's report, Mr. Chairman, we applaud the breadth of the introduction and its focus on such issues as women, labor, press freedom, the rule of law and democracy. Yet, like my colleagues from the Lawyers Committee and Amnesty International, we feel that the highlights of the past year were undoubtedly the creation of the International Criminal Court and the arrest of general Augusto Pinochet. This might have merited that the issue of accountability for gross violations of human rights carry its own section in the introduction to the report. I myself spent last summer in Rome at the conference which created the International Criminal Court and much of the last few months at the House of Lords in London where Human Rights Watch, like Amnesty International, intervened in the hearings on General Pinochet. Unfortunately, U.S. opposition to the new court and its silence on the arrest of General Pinochet might have made a section on accountability awkward, as would the U.S. continued refusal to hand back uncensored to Haiti the tens of thousands of documents seized by U.S. troops from Haitian paramilitary and military headquarters and sought by Haitian prosecutors, or the U.S. refusal to prosecute or extradite Haitian death squad leader Emmanuel Constant who lives free in New York City.

We are also troubled in the introduction by a creeping selectivity, particularly in the Middle East, in which only Iraq, Syria, Libya, and Iran are mentioned as repressing democratic dissent. Yet Saudi Arabia and Bahrain and Tunisia, to name just three allies also, "used their vast security apparatus to quash effectively all organized political opposition or dissent," (as was said about Syria) and Egypt, no less than Libya, "employed summary judicial proceedings to suppress human rights."

In the Introduction's "Developments Toward Democracy" section, Libya, Iraq, Syria, joined by Saudi Arabia as countries described that "tightly proscribe civil society." The narrative then goes on to discuss Egypt's restrictions on nongovernmental organizations, but rather than expressing the Department's own opinion, it merely says that, "Many local and international human rights activists have concluded that government restrictions have inhibited reporting on human rights abuses."

Likewise in the Introduction, we are struck by the juxtaposition of reference to mineral-rich and geographically privileged Turkmenistan, described as exhibiting, "modest progress by releasing political prisoners," next to the strategically less Uzbekistan cited for official torture, harassment, and other restrictions on op-

position figures. While these serious problems do exist in Uzbekistan and we welcome the Administration's attention, they all are equally or more prevalent in neighboring Turkmenistan.

Similarly, the report lists Belarus, Burma, Cuba, Iraq, Libya, North Korea, Sudan, and Syria as countries in which the rule of law has been warped to fit the whims of a tiny ruling elite. In the Middle East alone, the section could have just as easily listed Bahrain, Saudi Arabia and most of the other family-ruled emirates, all allies of the United States.

I would like to turn now to look at some of the country chapters which we have had a chance to read.

Turkey. Several speakers have already mentioned Turkey, and we read the Turkey report as generally accurate, describing the persistent problems of torture, restrictions on freedom of expression and repression of Turkey's minorities. Our concern, however, is beyond this frank rhetoric; Turkey as an important U.S. ally, suffers only limited repercussions for its abusive practices. The U.S. Government's willingness to back up these words is about to face an important test, Mr. Chairman, that you have already noted. Last week, the Turkish military announced two U.S. companies among the five finalists competing for a contract to supply it with attack helicopters.

Peru. The report correctly notes that in Peru, "The judicial system continued to be inefficient, often corrupt, and easily manipulated by the executive branch." President Alberto Fujimori used provisional and temporary appointments to create a core of judges largely beholden to him for the ongoing occupation of their offices.

Given this accurate portrayal of executive interference in the judiciary in Peru, we are seriously concerned about the message that will be sent by Attorney General Janet Reno's presence in Lima next week at a Justice Ministers Summit. Unless the Attorney General uses the meeting to forcefully advocate the restoration of judicial independence, her presence at the meeting will provide president Fujimori with undeserved support for his campaign against the judiciary.

Democratic Republic of Congo. The chapter on the Democratic Republic of Congo accurately portrays the marked deterioration of the human rights situation in areas which remain under the control of President Kabila's Government. However, as Congresswoman McKinney suggested, the chapter is far less informative on the dismal human rights record of the rebel Congolese Rally for Democracy. For example, violations by the rebels and Rwandan, Ugandan, and Burundian forces backing them of international law during their campaign to take the capital in August, and in areas under their control in eastern Congo, get only a passing mention. The chapter fails to highlight a pattern of arbitrary arrest, illegal detention, often in unacknowledged detention centers, and disappearances of which the political opponents of the rebellion are the victims. It appears to exonerate the rebels of targeting their perceived ethnic enemies, as the government has done.

A Human Rights Watch just released a report this Monday, looking at violations both by the conclasa government and equally by the rebels. But the lack of balance in the State Department's report could only reenforce the perception which is widespread in the re-

gion, that U.S. policy is skewed in favor of the rebel alliance and its Rwandan and Ugandan backers.

Earlier, Secretary Koh mentioned my own role as Deputy Chief of the U.N. Investigative Team in the DRC a year ago, an investigation which was thwarted by the Kabila Government, then a close ally of the Administration. As a U.S. citizen on that team, it pained me to experience that the United States put more pressure on our team to accept Kabila's limitations on the investigation than it did on President Kabila to rescind those conditions. The legacy of impunity for those refugee massacres that was left behind is felt today as both sides perhaps correctly feel that they can get away with similar human rights abuses and the world is not going to do anything.

Rwanda. The chapter on Rwanda repeatedly declares the seriousness of the situation, but stops far short of revealing the full extent of the abuses committed, particularly attacks on civilians in the northwest. The report states twice that the numbers of civilians killed cannot be estimated, and talks of hundreds; yet in the numbers it cites for just three incidents, the death toll exceeds 600. Indeed, one staff member at the NSC talked earlier this year of some 50,000 killed, and diplomats in Kigali talk regularly of 200,000 or more who are unaccounted for. Some of the victims have been killed by insurgents, but clearly the government with its overwhelming firepower has been responsible for killing more. Similarly, the description of the concentration of the population in camps fails to reveal the extent of force used in some cases where civilians have been ordered to leave their homes or face treatment as insurgents in military sweeps. In this sense, talking of people who had been with insurgents returning, "home," is misleading. They are back in government-controlled areas but prevented from returning to their own home.

Colombia. The report accurately describes Colombia's poor human rights record and includes detailed information of innumerable gross and widespread human rights violations and abuses of international humanitarian law committed by governmental forces, the paramilitaries and guerrilla groups. It states most of the atrocities against civilians are committed by paramilitary groups, while acknowledging the tolerance of the military toward paramilitary groups continues. There is also explicit recognition of the lack of accountability for human rights abuses in Colombia and the report names several high-level military officers who are or have been under investigation as a result of credible evidence of their involvement in serious human rights abuses, including relations with paramilitary groups. The report shows that the current leadership of the Colombian military, with few exceptions, has a very questionable human rights record.

China. As has been stated, the report on China and Tibet is hard-hitting and accurate in portraying widespread and systematic abuse, particularly the section on religion. The discussion of abuses associated with the practice of reeducation through labor is thoughtful and detailed, as is the reporting on efforts to block Internet communication. The description of instances of coercion and meeting family planning targets accords with other informa-

tion we have received, although Human Rights Watch has done no research yet of its own on this issue.

The effort to give the Chinese Government credit for improvement is sometimes disingenuous, however; for example, the fact that the government allowed EU Ambassadors to visit Drapchi prison in Lhasa, Tibet, is hardly evidence of greater transparency when the visit was a show tour. The report also makes no mention of deaths of prisoners that occurred after the visit. It simply says that there were unconfirmed reports that prisoners were beaten.

While the report itself is hard-hitting, however, Administration action is not. In the face of the worse crackdown on dissent in 10 years, I join with the other colleagues on this panel to say that it is time for the Administration to end its silence and promote a strong resolution on human rights in China next month in Geneva.

Indonesia. The Indonesia report is superb: comprehensive, nuanced, and more detailed than ever before. It is particularly good on human rights abuses related to political protest in Jakarta. The much more sophisticated treatment of Irian Jaya raised by the Congressman from America Samoa is much more sophisticated than past years, reflecting close monitoring by the embassy. One weakness, however, that does not detract from the overall quality of the report, is the failure to adequately address the Indonesia Government's role in the abuse of Indonesian migrant workers sent overseas.

Just turning to the theme of women, finally, Mr. Chairman, this year's report points out that, "In 1998, domestic violence and sexual harassment remained endemic." However, the report almost always stopped short of identifying government obstacles to women reporting sexual and domestic violence and treats these phenomena as somehow even mysterious in their origin and presence. The report rarely mentions the fact that many countries' domestic violence and rape prohibitions are poorly constructed and enforced. Forensic doctors are poorly trained. Police prosecutors and judges are biased and as a result, the likelihood of rigorous investigation and prosecution of domestic violence or sexual violence is low.

Human Rights Watch commends the Department on the inclusion of trafficking in the DOS Country Reports. It is particularly positive to see attention focused on the role of governments and official corruption in perpetuating the trafficking. However, the reports themselves are spotty, relying on out-of-date data and glossing over the records of several countries.

Finally, we would make the following recommendations to the Administration concerning the reports:

The United States should take the lead in preparing and advocating a strong critical resolution regarding the human rights situation in China at the upcoming commission session in Geneva.

In countries where the United States has a diplomatic mission, the Ambassador should be designated to present the chapter of his or her country to the appropriate high officials. Offending governments, particularly allies, will pay more attention if these findings are discussed at trade talks, security gatherings, and summits and not only relegated to the compartmentalized human rights dialog sessions.

The material in the Country Reports should be linked closely to the approval of all weapons transfers, whether or not these involve aid or credits or strictly commercial sales.

Finally, the Administration should seriously consider adding a section to each chapter specifying what steps the U.S. Government has taken over the period covered to address the abuses cited.

In closing, let me make one additional point. The increasingly high quality of these reports highlights the absence of anything comparable about U.S. human rights practices. Last year, Human Rights Watch and 12 other U.S.-based international human rights and domestic civil rights organizations wrote to President Clinton urging the Administration to authorize the appropriate departments to compile and publish annually a report on the human rights situation in the United States. Such a step would build on last December's executive order, which my colleague from Amnesty International mentioned, and enable U.S. citizens and residents to gauge the government's compliance with the international human rights treaties it has ratified.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Brody appears in the appendix.]

Mr. SMITH. Thank you very much, Mr. Brody, for your excellent testimony. I would just ask a few questions, and I think all four of you were here during the previous exchanges. If there is anything at any point you want to add to any of the countries that were mentioned, please do.

Ms. Shea, you brought up the situation in the Sudan, and I just want to remind my colleagues, some of whom were not on the Subcommittee, we had an extensive hearing on slavery in the Sudan and Mauritania on March 13, 1996. We heard from very, very credible witnesses, including the U.N. Special Rapporteur for the Sudan, Dr. Gaspar Biro, who documented and stated clearly and unambiguously that slavery not only is a despicable reality in the Sudan, but it was getting worse at the time. That was in 1996. The information that we have and you have strongly brought before the Committee today that it is bad and getting worse. I am not sure what we can do about it but we certainly need to be raising our voices much more loudly than all of us have.

When we had that hearing, you would not believe the sense of disbelief that came our way as a committee. We had some people who were in the audience, one person from Reverend Farrakhan's organization, who came up and said, "Why didn't you have somebody from Khartoum testify?" and he said we were falsifying the information that was being put out. I said, First of all I agree with the witnesses, but nobody is falsifying. If a representative from Khartoum or anybody else wants to come and testify, we would welcome them with open arms, and you can guarantee that they will be grilled very, very vigorously about these egregious practices.

And, Mr. Fowler, thank you for pointing out that we have not paid enough attention to what is going on in Serbia itself. We had a hearing of the Helsinki Commission on December 10, which I chair. We heard from Milan Panic who, as you know, used to be the Prime Minister there. We also heard from a number of the media people who talked about how what were relatively free and independent dailies were being shut down left and right as a direct

result of this enhanced crackdown by Milosevic in his own country. To have the right context, I think you are very right in pointing out we need to speak out much more vigorously about what is going on there.

I do have a couple of questions, and Ms. Shea, I do thank you for bringing up Egypt. Saudi Arabia is another area where I think we have not focused enough on the crackdown on religious belief, especially as it relates to Christians and foreign nationals, particularly Filipinos, who find themselves increasingly either deported or mistreated by the religious police. There is also the situation, particularly in Saudi Arabia, of a number of people who have converted, and that certainly should be their right, to convert to whatever they want to convert to. The Declaration on Tolerance for Religion from the United Nations and other statements clearly makes this an internationally recognized human right. And yet if an indigent person in Saudi Arabia converts, they can go to prison and they may even suffer the ultimate in that country. If any of you would like to speak to that issue.

Ms. SHEA. Yes, Mr. Chairman, I am glad you brought that up, because I meant to raise this in my testimony, which is that the report gives undue deference to the government's defense in Saudi Arabia—it says the government ascribes any residual harassment of private worship services to individuals and organizations acting on their own authority and in contradiction of government policy. In fact, those who seek out private religious services and private prayer of the foreign nationals are the religious police, or Muttawa, and they are the enforcing arm of the Committee for the Propagation of Virtue and Prevention of Vice, and they are accountable directly to the Council of Ministers. They are funded directly by the government to monitor the strict observance of Islamic codes of conduct throughout the kingdom, and they are authorized to raid suspected gatherings for illegal religious worship and to arrest, interrogate the participants, and detain them for 24 hours before turning them over to the police. That is hardly a situation of individuals acting on their own. I really wish the State Department would correct that in its next report.

But this is indeed a problem, and as you mentioned, the Filipinos have been very hard hit with this. Donato Lama is one Filipino Catholic. These Muttawa police found a photograph of him in a private prayer service and gave him 70 lashings, put him in prison for 18 months before deporting him. And he alleges that two other Christians that he was in prison with were beheaded.

Mr. SMITH. Mr. Rickard.

Mr. RICKARD. I would just add, Amnesty will in fact be conducting a worldwide campaign on human rights abuses in Saudi Arabia by all Amnesty sections worldwide, including the U.S. section. It is obviously a country with very, very widespread human rights abuses. Repression of religion and status of women in Saudi Arabia are very severe problems. Torture is a severe problem, including torture alleged by U.S. citizens who have been in Saudi Arabia, and it is another litmus test country in terms of whether or not the United States can rise above the close policy links that it has with Saudi Arabia and act on the human rights information it has available to it. It is a country where we are providing enormous

amounts of weaponry, where both U.S. direct military involvement—and an increasing phenomena—which is U.S. private military companies are operating, which is an issue we are taking a closer look at. But we will look forward to working with you and other Members of that Committee when that campaign is under way.

Mr. SMITH. I appreciate that, because I think Saudi Arabia has gotten away with much because of the political overtones of our relationship. I know the priest who married my wife and me over 20 years ago was the head chaplain during Desert Shield/Desert Storm, and the stories he told us when we were literally saving Saudi Arabia from the possible negative aspects of Saddam Hussein's invasion, or potential invasion, were outrageous. I think the time has come to say, "Join the international community." Islamic belief needs to be protected and sandbags put around anyone who wants to practice that faith, but likewise protection ought to be equally accorded to anyone who believes otherwise or has no belief. I mean, that is what tolerance is all about. I think Saudi Arabia has escaped notice for far too long. Our Subcommittee is planning on looking into this very extensively. We will work with you and hopefully we can persuade them to reassess the trend line that they are on, which is not a good one.

Mr. Brody, you mentioned and I appreciated that sentence in your statement: "The effort to give the Chinese Government credit for improvement is sometimes disingenuous." I think the report this year is perhaps a little less disingenuous than previous years, but there are a number of instances, as you pointed out, where they get far too much of a kudo, where none really is deserved, and especially when it is done in a duplicitous way.

It is amazing to me how every time the Chinese Government deflects criticism with something superficial. When Jiang Zemin came over, they announced they were going to sign a U.N. document. They don't actually improve the situation, but they get all the credit for that. It acts as a buttress against criticism because it looks like they are moving in the right direction, and then we find they are moving very aggressively in the opposite direction.

In the area of forced abortion, which I mentioned earlier is a crime against humanity, you point out that while you haven't done independent reporting, you concur with the findings. It is absolutely appalling to me that some U.N. agencies, especially the U.N. Population Fund, continue to defend, cheerlead, and support the Chinese coercive population control program, which is an outrage in my view. This hurts women and steals their children and kills those children through forced abortion; often very late in pregnancy. It is done with particular impunity against the Tibetans, where there is also a culture transfer going on with Han Chinese. I think your point is very well taken. If credit is due, we give it, but the Chinese Government has played us for fools in many ways by doing something that has surface appeal, and the Americans will buy it, and in this case report on it as if it really meant something.

Do any of you want to respond on the coercive population control issue, because it is getting worse. I think it was Ms. Shea who mentioned *The New York Times* report. We have more and more in-

formation coming out of China. Mrs. Gao was just one further example when she testified here about how women are literally imprisoned because they want to have a baby and carry that baby, because brothers and sisters are illegal. I would say to my colleagues this becomes increasingly problematic when you see people like Ted Turner stating, as he did recently, that we need a world of "one-child-per-couple" policies, an international norm. You only get there by coercion.

My wife and I have four kids. We love them dearly. If the government says we can't have the other three, coercion is the only means to preclude the other three from living their lives. So the trend line there internationally is not a good one. We know Vietnam has a "two-child-per-couple" policy. And they use all kinds of vigorous disincentives, including access to jobs as a means of enforcing it. That is, to me, breaking up a family. And destroying the kids, once conceived, is a terrible human rights abuse.

Mr. Brody.

Mr. BRODY. Congressman, I would add I have done my own research prior to coming to Human Rights Watch on that issue in Tibet—in fact, most Tibetans are allowed to have more than one child. The limits there are also very strictly enforced. And the justification in Tibet that might be argued in other parts of China is certainly lacking. Tibet is a very sparsely populated area in which, as you pointed out, there has been a transfer of Hunan Chinese into the country, and yet very much in conflict with the Buddhist philosophy of most Tibetans, almost all Tibetans, the policy is rigorously enforced, not so much, we found, by actual physical coercion as much as by economic and legal coercion and incentives, fines.

There is also a very severe problem of illegal children, children who have been born past the policy and who are not then able to register for school and other social benefits.

Mr. SMITH. Mr. Fowler.

Mr. FOWLER. I just wanted to add one thing. This is somewhat tangential but it is such an important issue. We, the Lawyers Committee, in addition to other work we do, we operate an asylum representation program where we represent individuals who are seeking asylum in the United States, and a number of our clients are people who have fled these policies. In fact, many of them have been referred by you, Mr. Smith. What is kind of amazing is that the Immigration and Naturalization Services recently proposed regulations that ostensibly are geared toward limiting the ability of victims of past persecution to claim asylum in the United States, and they say in their explanation of the rules that they are particularly concerned about people who have undergone forced sterilization being able to get asylum in the United States on the grounds that, well, they are not going to be subject to future persecution because they have already been sterilized. And I am sure your office is aware of this, but it is just remarkable that given the congressional concern about this issue and the express congressional action to provide protection to people who are fleeing that kind of persecution, that the INS would recommend regulations like this.

Mr. SMITH. I would like to yield to my Chief Counsel for a question.

Mr. REES. While you are on that, can I ask one question? And we should have asked this question to Assistant Secretary Koh as well. You know, even though the "Country Reports" are pretty good, right up to the "therefore," on coercive population control, there still is this document, this 1- or 3-pager being put out by the so-called Asylum Office which we used to call the Anti-Asylum Office—it has gotten better—in DRL. We gave them the information 6 or 8 months ago from the hearing we had with Mrs. Gao, the defector, and they still got this boilerplate from 5 or 6 years ago that says there are fewer abortions than there used to be in China, therefore it must not be as coercive. But when you have sterilized an enormous percentage of the population, you can't have as many abortions as you used to, no matter how hard you try, and there are all sorts of junk science and junk statistics that seem designed to help immigration judges reject these cases.

And I don't think it is anybody's fault. There is sincerity at the top. But you may have had more experience with this, Mr. Fowler. Has your organization run into this document, and is it as bad as people tell me it is? I haven't seen it lately.

Mr. FOWLER. You raised this with me last night, and unfortunately I haven't had a chance to consult with my colleagues on the Representation Program, but I am going to because, as you point out, to say that you are reducing forced abortions because of the success of your forced sterilization program—which would essentially be the case—is not human rights progress at all. And if that is essentially the advice that is being given in the asylum reports that are being used by immigration judges who are deciding asylum applications, it needs to be stopped.

Mr. REES. Thank you, Mr. Chairman.

Mr. SMITH. Just to add to that, by reduction there are still millions per year. There is a wholesale exploitation of women and children, even though the number could potentially go down because of forced sterilization.

Let me ask you about the Memorandum of Understanding with regard to gulag labor which, with great fanfare, was negotiated during the Bush Administration, and was updated a little bit but not well during the Clinton Administration. Based on everything we see, it is not worth the paper it is printed on because, as you said, Mr. Brody, it is used as a way of giving undue accolade to progress when no progress really is being made. I mean, the waiting period before we can investigate something, is prohibitive. We have compelling information that the product was made by gulag labor. We don't have access to these places even with the unbelievable amount of Chinese goods coming here—\$60 billion trade deficit per year with the PRC. Presumably a percentage is coming out of these laogai, and Harry Wu has documented so many products that are indeed coming from there. Yet we don't have good access to those places of origin.

I myself, along with Frank Wolf, was in one of those gulags some years back. They shut that one down, and they probably opened up two or three somewhere else to make up for it and then some. Is it time to renegotiate an MOU that has real teeth so that we can crackdown on the importation of gulag-made goods? Would anybody like to respond?

Mr. RICKARD. Let me make a couple of comments about that, and I would undertake to consult with my colleagues and get back to you on the specifics of that.

But first, actually I first really became acquainted with this topic when I was working for Senator Moynihan and he held a hearing on ILO labor convention on forced labor, and your colleague, Frank Wolf, shortly after that trip came over and testified before the Senate Foreign Relations Committee and brought back some of the products that he had purchased at the prison where forced labor was being used to manufacture these socks which had English written on them.

Mr. SMITH. He and I were there together.

Mr. RICKARD. Senator Moynihan used to carry a pair of those socks around with him and say we need the ILO. We have got to have labor standards. So, I have a long association with this issue indirectly.

I think the MOU has to be reviewed in the context of your point earlier about the skill, the adroitness of the Chinese Government in selling over and over and over again these things, or paper progress, or commitments that aren't backed up by any reality.

And I will just briefly tell one of those wonderful, awful stories that I heard just recently from a State Department official who said that she had been present when a high-ranking Chinese official had said to a lower-ranking Chinese official about something that person was doing, "But you can't do that. That violates the constitution." And the more junior official said back, "The constitution is just for the foreigners. You are Chinese, aren't you?" Almost as if, "Didn't somebody let you in on the secret?" So obviously, whenever we negotiate on any of these issues with the Chinese, we have to be extremely careful to make sure that there is going to be implementation, there is going to be follow-up, there is going to be monitoring, and that applies across the board.

Mr. SMITH. Just in follow-up to that, that is why I raised issue with the Secretary earlier about the declarative sentence, "At the national level, the government is against coercion." Nothing could be further from the truth. And talk about taking Potemkin village site visits, there have been many such visits over the years by some of the population controllers, who then come back here and tell us how wonderful it is over there.

One person went on Oprah Winfrey's show some years ago, a noted feminist, and said we should all learn from the Chinese model. My God, nothing could be further from the truth—to subjugate women like that, as Mrs. Gao and so many others have testified. Wei Jingsheng has even spoken very eloquently on that issue as being a gross abuse of human rights of women and children and men, of course, in terms of family.

Mr. RICKARD. On both of these issues—and I think it is a small step but an important step—so many people will only read the introduction to the report, not of the entire thing. The introduction is very important in terms of what it highlights and what it talks about. And this year the issues you talked about, forced abortion and sterilization and forced labor, for the first time—well, we will have to go back and look at them—but certainly compared to last

year are explicitly referred to in the introductory sections. They are highlighted as problems.

Last point I would like to make. I join all my colleagues about the need for the Administration to vigorously support a resolution on China at the United Nations. I just want to add one thing; and that is, while they ought to start doing that now, I mean, this minute, they really also have to start planning for next year, because that is the way the Chinese Government approaches this. The minute the last session is done, they start lobbying against a resolution for the next year. We are always in a situation of the U.S. Government creating the situation by its failure to act decisively and line up support, that at the eleventh hour they turn to the human rights community and Members of this Committee and others and say it would be a lost cause. We create the situation and then rely upon the fact that we haven't lined up people as a reason not to do it.

When the United States took this seriously, worked at it hard, this was a real fight at the commission that put very serious pressure on the Chinese Government. If they are going to do this seriously, they have got to put real diplomatic muscle into it and they have to work at it for months and months ahead of time.

Mr. SMITH. I think that was proven years ago when Armando Valladres got the Cuban resolution, when everyone thought that was "Mission Impossible" and against all hope.

Ms. McKinney.

Ms. MCKINNEY. Mr. Chairman, I really don't have any questions or maybe I should say many questions, but I do want to thank this panel for your testimony and I would just like for you to know that I have taken very extensive notes and I look forward to working with you to see if we can follow up on some of your recommendations.

I did note Mr. Fowler's concerns about the potential marginalization of human rights in our foreign policymaking, and your suggestion was that perhaps an interagency approach might be appropriate. Could you just elaborate on that?

Mr. FOWLER. I would be happy to. Thank you, Ms. McKinney. I think the best illustration of the problem is with regard to China where, when the Administration wants to achieve some kind of commercial result such as lifting the sanctions on nuclear equipment, they put together a multiagency task force that figures out what all the problems are, what all the barriers are, and they go about breaking down those barriers and solving those problems. And there is not a comparable mechanism with regard to human rights, and so you end up where you have Secretary Koh, who is an incredibly articulate and well-informed spokesman for human rights issues, meeting with the Chinese in a human rights dialog and delivering a very tough message, which is good; but shortly before that, you have the President of the United States writing a New Year's letter to President Jiang Zemin where he hails the strategic partnership between the countries and doesn't even mention the words "human rights." And this is coming right in the middle of the crackdown on the China Democracy Party.

Mr. SMITH. Would the gentlelady yield briefly? Yesterday, in response to a question on strategic partnership, Secretary of State

Madeleine Albright said "there may be a partnership," as if it is something in the future. Is it your view that—and it was my view because we went and got a lot of the statements that the President had made, and it seemed pretty clear that is what he was always saying that the Administration views it as being a strategic partnership, or there will be one someday because—

Mr. FOWLER. I don't recall the exact words that were in that letter, but I don't remember it being that conditional. I think it was a reference, as though there is some kind of strategic partnership existing now, but the very important point is that he didn't make an explicit reference to human rights. And I think that kind of disconnect, where you have an Assistant Secretary raising an issue but it not being raised by the President, and we have expressed a concern—Secretary of Commerce Daley is going to China next month, is he going to raise it?

There should be a mechanism in place to make sure that that is on the agenda when Bill Daley meets with them, when Secretary Cohen meets with them, when Attorney General Reno meets with Chinese officials. So that is what we are talking about: having an interagency approach to make sure there is a comprehensive integration of human rights into U.S. foreign policy more broadly.

Ms. MCKINNEY. Thank you. And, Mr. Brody, the Chairman and I just discussed about the possibility of us writing a letter so that Janet Reno does raise those issues when she visits Peru. So your testimony is very important because we do take it seriously and then we act on it.

Mr. BRODY. I am very pleased to hear that.

Ms. MCKINNEY. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much. Mr. Delahunt.

Mr. DELAHUNT. Thank you, Mr. Chairman. I find it somewhat ironic and self-defeating in terms of our relationship with China and this reluctance that you describe in terms of being more forceful in terms of human rights. It would appear to be predicated on a perception among the business community, corporate America, about economic opportunities in China. The reality is we have a growing annual deficit in terms of our trading relationship with China that goes to some \$70 billion. And when you stop and look, this Nation represents about a third of Chinese exports, while China is around 3 percent of our export market.

I think we have a great window of opportunity, given this imbalance in trade and the need for the Chinese to have access to the American market. There is an opportunity that we are missing. And I concur with both the Chairman and the Ranking Member that it is important that that message be sent by every agency of government because I think the leverage is there, I really do. But that is just my own observation and response to the discussion here.

I think it was Mr. Brody that made the comment it is unfortunate that this is the only occasion in which human rights concerns are highlighted by the United States. And I was very pleased, again being brand new to the Subcommittee as well as the Committee, to hear that Chairman Smith has held hearings on specific countries. Unfortunately we don't have enough days and enough time to do that, but I applaud that and hope that we continue to

do that, because I really think it is important to highlight not just in terms of informing Congress, but also to inform the American people.

I think as a society we do have this fundamental sense of fairness. It is embedded in our culture and our jurisprudence and in our history, and I think it is a great strategy in terms of maintaining a high profile in terms of human rights. For example, it was maybe several weeks ago now—I happen to come from Massachusetts—if you didn't recognize the accent, I wanted to explain that—

Ms. MCKINNEY. Let me just say that I couldn't help but recognize the accent. I still don't understand it. Thank goodness you speak slowly enough.

Mr. DELAHUNT. Thank you. And I will try to speak slowly. But there was a very moving piece that was done by the father of Laurie Baronsen. You made reference to Peru and the lack of judicial independence, and I was really stunned by the number of calls that came to my office requesting that I look into this matter. And again, I think if we can, Mr. Chairman, we must take a look at those kinds of issues that are symbolic of so much of what is going on in the world in terms of human rights violations. There Congress resonates with the people, who in turn will let their voices be heard in terms of Administration policy, whether it is applicable to China or to Peru or whatever country that we have concerns about.

And I would like to pick up on a comment that was made by Ms. Shea and just throw out an idea and hear from you on it. You referenced genocide in the Sudan. Earlier, when Secretary Koh was here I read this morning's *New York Times*, which used the term "genocide," which I would suggest is the ultimate crime against humanity. I seek some comment from either the Ranking Member or from the Chair that in terms of these "Country Reports," in the view of the Administration, they felt that wasn't good policy, but I do wonder if as part of this reporting system there should be a separate and discrete part of that report to deal especially with the issue of genocide and where it is happening.

Several months ago, I read a report about Rwanda and the reluctance of the State Department to describe what was occurring there as genocide, because genocide is something that really grabs the attention of the American people. From your testimony today and from that of Mr. Smith and Ms. McKinney, there appears to be considerable improvement, but I do wonder if we ought to consider an amendment to the statute which would define areas of concern predicated on a definition of genocide.

Ms. Shea.

Ms. SHEA. Yes, I think that is an excellent idea. It seems almost the United States has missed every genocide while it was happening. It was certainly true of Guatemala. You know, we read the paper today, 10 years later, 15 years later, that there was genocide occurring in Guatemala. Rwanda, the United States did not act fast enough. Now, it happened in 3 months, but still there were human rights troops on the ground, peacekeeping forces on the ground. They knew what was happening. Human rights groups were seeing what was happening. And Sudan today, it is not being mentioned

in this report at all. Genocide is occurring and 2 million have died. They are using old figures, by the way, of 1.5 million, but that still is a lot of people dying; and I think to separate out a section to highlight these very worst offenders of human rights, these across-the-board gross violators reaching the level of genocide would be extremely useful.

Also, I just want to respond quickly to you, Mr. Chairman. You said you didn't know what could be done with Sudan. I just want to throw out five quick things that could be done.

Ms. SHEA. I know that we are running out of time. One is repeal this U.N. policy of giving Khartoum veto power over international food deliveries. Two is insisting on the creation of safe havens, where people can receive food and medical care without worrying about being bombed, massacred, or forced to convert to Islam.

Mr. SMITH. If you could, we had a hearing, and Carol Bellamy from UNICEF and many others who were part of the operation and under the U.N. auspices, did raise that very question about the veto power. It is a rock and a hard place kind of situation, no access versus limited access.

There were some on the panel who felt that by allowing them to have that veto power, they simply use food as a weapon and use humanitarian assistance as a weapon to kill more people.

Ms. SHEA. They are using food as a weapon now. The Vatican press agency is predicting maybe 2.5 million again in 1999 are in imminent danger of starvation as we reach the hunger gap in Sudan. Khartoum is a very weak government. Last week it was saying that it was willing to let the south secede. No one believed them, but it shows their desperation. They are apparently very short of funds.

I think if we stood up to them—and that is one of my other points, is to announce that this is a “genocide.” The U.S. Government should declare this. It should not allow this government to cloak itself and cloak its genocidal practices in one of the world's great religions, because it really demeans—by giving religious deference to this regime—and I think there are political motives here, not religious motives—it demeans the great traditions of art and culture and tolerance of Islam. We should call it what it is, “genocide.”

I think that the government, with very little publicity last summer, did back down; the government of Khartoum backed down and let international relief in because the press started carrying on the front pages the fact that there was mass starvation because of government manipulation.

Another suggestion would be human rights monitors, place them in the country. This was a recommendation of U.N. Special Rapporteur, Gaspar Biro, which was adopted by the Human Rights Commission. We could at least put human rights monitors or have the U.N. put monitors in places, in areas that the government does not control; go to the refugee camps, find out what is happening on the ground.

Also, UNICEF should be pushed to have a slave-tracing program. As we reach the dawn of the third millennium, slavery should be abolished all over the world. We should not know about it and do nothing.

Mr. BRODY. I would also like to respond to the very important comment by Congressman Delahunt.

I think the key is doing something, as Nina Shea said, when the genocide is occurring. You correctly pointed out that this Administration refused to use the word "genocide" while the genocide was unfolding, precisely to avoid having to do anything, because under the genocide convention, all the signatories, including the United States, are required to take collective action to prevent and to prosecute genocide.

There are times when this country has been complicit, such as in East Timor, in the destruction of a people. In northern Iraq, before the invasion of Kuwait, when the government's opinion of Saddam Hussein changed, when Saddam Hussein used poison gas to lay waste to Kurdish villages, that was not called a genocide. In fact, Human Rights Watch attempted at that time to interest a state, any state, in taking a case of genocide against Saddam Hussein to the International Court of Justice, as is provided for under the genocide treaty, and no state was willing to do so, not even the United States.

Mr. DELAHUNT. I believe this is the ultimate of human rights violation. I presume we can agree that it is the ultimate crime against humanity, and unless we are forthright, I think we lose our moral authority internationally. I wonder if through the process of these Country Reports a section could be focused on that particular issue. Doing that might give it the kind of high profile and awareness that it justly deserves, including bringing pressures on the United States at least to acknowledge it, recognize it, and speak to it in the appropriate forum.

Mr. BRODY. The trick will be to get them to do that. There are already laws on the books, for instance, requiring that the U.S. cut off aid to countries which grossly abuse human rights, and yet—

Mr. DELAHUNT. Even if we report it, then we make it a matter of—

Mr. BRODY. Agreed. Agreed.

Mr. RICKARD. Mr. Delahunt, I think I would add, I think this is an area, as has been the case with so many human rights issues, where the Congress has been ahead of the Administration. The Congress mandated the creation of the Bureau; it mandated the writing of the reports. It may well be that this would be an area where it would be useful for the Congress to mandate that the Administration get out in front on these issues.

I was working in the Senate at the time of the Rwanda genocide. I can tell you that every single member of the Senate Foreign Relations Committee on a completely bipartisan basis sent a letter to the Administration saying, this is genocide. You will have to do something about this. We will back you if you do something about this. You can begin by calling it genocide. And there was no action taken.

Mr. DELAHUNT. That is my point. I will defer to the Chairman and the Ranking Member and look to them for potential legislation that I would be enthusiastically supportive of.

Mr. RICKARD. Just on one point, I think the article you were referring to this morning had to do with Guatemala also.

Mr. DELAHUNT. Right.

Mr. RICKARD. There is something that a large number of the Members of this Committee are actually trying to do on that specific genocide, which is to pass the Human Rights Information Act—the article mentions that the U.S. turned over a number of declassified documents. The State Department was very good about that. But the U.S. Intelligence Community was not. It has not done a thorough job of looking through its files.

The irony is that in many of these cases, the United States will have the best information about what happened to the people. It is very possible that the U.S. Government in some file cabinets in the Intelligence Community around here, around this city, knows more about what happened to people's loved ones in Guatemala than people in Guatemala do, even after they had their Truth Commission.

I commend the Members of this committee for trying to pass the Human Rights Information Act. We are going to stay at it until it gets passed.

Mr. DELAHUNT. Mr. Chairman, let me just say, I have enjoyed this particular presentation. Let me applaud you for the work that you do. It has been very informative, very instructive. I also want to compliment the Chair for creating a format where we don't have to deal with lights or 5-minute rules. I think it is really beneficial for an exposition of issues that should be of concern to every American and everybody on the planet. I want to applaud the Chairman.

Mr. SMITH. Mr. Delahunt, thank you very much for the compliment. We have had, both in the Helsinki Commission, but more so even on this committee in the last 4 years, something on the order of 100 hearings. Most of them have been day-long because this information and this dialog is so vitally important to the people whose lives are abused. So we will continue focusing country by country, region by region, on specific human rights abuses.

I am glad Mr. Rickard pointed out, because there were many of us on the House side, too, who were calling on the Administration to call it what it is, a genocide. If things are triggered by that, as they are, so be it. But to sit by and to look for synonyms that don't have any kind of triggering mechanism did an injustice to those who were being slaughtered.

So thank you for bringing that up, and thank you, Mr. Rickard, for pointing that out, because on the House side we had a similar bipartisan sense—almost like someone said when he was at the Holocaust Museum, when he turned to the President with regard to the ethnic cleansing in Bosnia and he said, "Do something, Mr. President." There were things that could have been done. Previous Administrations have been lax in not being willing to call things as they are.

I just have one final question, and I would like to suggest for you to reply to us in written form. In looking at the report on Cambodia, the Country Reports concludes that "despite the incidence of political violence, intimidation, and election irregularities, the formation of the new government reflected the will of the electorate."

I would like to ask you, how is this conclusion consistent with the facts documented in the report that there were numerous political killings during the election campaign, including some that were clearly sponsored by the government, and that the govern-

ment dominated radio broadcasts during the election campaign, shutting out almost all opposition viewpoints, especially in light of the fact that Hun Sen's party got fewer votes than the combined votes of the anti-Communist opposition parties? How can we then put the stamp or imprimatur on it and say somehow this is the will of the electorate?

Have any of you seen that? I know we have not read the reports as thoroughly as we would like, but that is a direct quote out of the report.

Mr. Fowler.

Mr. FOWLER. I can't give you a comprehensive report on that. This week we have a mission that is in Cambodia. I will certainly be eager to share with you their observations.

They want in particular, though, to respond to the prosecution or persecution of human rights activists, members of nongovernmental organizations. Ironically, at the very same time that the Hun Sen Government was welcoming with bouquets of flowers former Khmer Rouge leaders, they were arresting and throwing in jail human rights activists who were trying to call attention to human rights abuses that are occurring right now.

In fact, some of those are going to be in town next month. They are being given an award that the Lawyers Committee administers along with the American Civil Liberties Union called the Roger Baldwin Medal, which is to acknowledge courageous people in other countries who are fighting for basic rights.

So I hope we will be able to arrange a meeting when they come through town.

Mr. SMITH. We will do that. I think that is a great idea.

Is there anything else that you or other Members of the panel would like to add?

I would like to thank the four of you and the organizations that you represent for the yeoman's work you do, very often unrecognized and underappreciated by many people, especially Members of Congress. You really are in the vanguard of protecting those who are defenseless in many cases. I and I know my colleagues are very, very grateful for the work that you do. We applaud you, admire you, and believe you, because you bring very credible information with you.

Thank you very much. The hearing is adjourned.

[Whereupon, at 4:14 p.m., the subcommittee was adjourned.]

APPENDIX

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STATEMENT OF REP. CHRISTOPHER H. SMITH **Chairman, Subcommittee on International Operations** **and Human Rights**

1998 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES **February 26, 1999**

I am pleased to convene this hearing of the Subcommittee on International Operations and Human Rights. I am especially proud that the subcommittee's first hearing in the 106th Congress is for the purpose of reviewing the Country Reports on Human Rights Practices for 1998.

Our distinguished witnesses this year include our new Assistant Secretary for Democracy, Human Rights and Labor, Harold Koh, and the representatives of four leading human rights organizations.

This year's Country Reports, delivered by the State Department to Congress late last night, tell the story of another bad year for human rights around the world. The totalitarian governments of China, Viet Nam, and Cuba all intensified their persecution of political and religious dissidents. In fact, according to wire reports this morning, Cuba plans to try four of that island's best known dissidents on Monday. Vladimiro Roca, Martha Beatriz Roque, Felix Bonne and Rene Gomez Manzano have been detained on sedition charges for the past 19 months. Their crime: calling for democratic changes to Cuba's one-party communist system. Women in China continued to be subjected to forced abortions and forced sterilizations. The unyielding military dictatorship in Burma continued to persecute the people who won the country's only free and fair election ten years ago, and the regime in Sudan continued to kill and enslave people because of their race and religion. Persecution, harassment, and discrimination against religious believers continued, not only in Communist countries but also in South Asia, the Middle East, the former Soviet Union, and even Western Europe. Even the few bright spots, such as the prospect of democracy for Indonesia and Nigeria, had more to do with new hope than with established fact.

I am happy to say that on a preliminary first reading, this year's Country Reports seems to state more hard facts and to pull many fewer punches than last year's reports. I do hope, however, that Secretary Koh will address what appear to be some inconsistencies, omissions, and unanswered questions.

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First, whenever we talk about human rights today ¶ and especially when we talk about the danger of tolerating human rights violations in the interest of achieving some other goal ¶ we always seem to end up talking about China. This year is no exception. Much of this year's China report is very detailed, and it paints a grim picture. Like last year's report, however, this one contains a number of irrelevant and gratuitous statements about the difficult tasks facing the Chinese government, the progress being made in the expansion of the Chinese economy, and so forth. Wei Jingsheng stated that last year's China report attempted to "beautif[y] the Chinese Communists." This year's report eliminates or at least softens some of the exculpatory statements in last year's report, but others remain. For instance, the opening paragraph this year contains a reference to "continued improvement in living standards of most of China's 1.2 billion citizens." What does this have to do with whether the Beijing regime is a gross human rights violator? The reference to economic progress in a human rights document is an unfortunate echo of the defense offered by dictatorships everywhere of their own abuses --- that they must be weighed against the regime's claimed achievements, and that a few eggs must be broken in order to build the omelette of prosperity and public order.

Another way in which bad conduct can be made to look less bad is to use the failures of the policy ¶ such as the inability of the Chinese government to extend its brutal "one child per couple" policy into the remotest regions of rural Tibet, or the fact that the "unofficial" Catholic and Protestant churches in China attract more and more adherents every year ¶ as evidence that the policies themselves are not as bad as they might be.

But the worst evasion of all is to accept at face value the empty declarations of the violators themselves, or to juxtapose these declarations with hard evidence in a way that seems to imply that both are entitled to equal dignity. I am particularly disappointed to read the following statement in the discussion of coercive family planning practices in China:

"Government policy prohibits the use of force to compel persons to submit to abortion or sterilization"

This is simply not true. Of course the Chinese government officially *claims* to oppose coercion, just as the Soviet Union always claimed to support free speech and democracy. But before repeating such a self-serving claim as real evidence of what government policy really is, shouldn't we insist on some evidence? In the case of forced abortions in China, the evidence is clear: local and regional officials are liable to be severely punished if the number of babies born in their jurisdictions exceeds the assigned quota. There is no evidence, on the other hand, that any such official has ever been punished for forcing women to have abortions or to be sterilized. So which is the real government policy: to oppose coercion even if it

means exceeding the quota, or to meet the quota even if it means having forced abortion? The answer is obvious, and the report somehow manages to get it wrong.

There are similar problems in the report on Viet Nam. Once again the report grossly understates the extent and nature of discrimination, harassment, and persecution of asylum seekers who have been forcibly returned under the "Comprehensive Plan of Action." It even contains the inexplicable assertion that all of the people who were forcibly repatriated were convicted criminals. This is just not true. We forcibly repatriated Buddhist monks, Catholic nuns, anti-Communist poets and war heroes, and lots of them are in deep trouble back in Vietnam. Secretary Koh, I know these reports are not the product of any one bureau, and I strongly suspect this error was a contribution by some zealous bureaucrat from elsewhere in the State Department. I hope it can be corrected, and I also hope you will have some influence in making the Department kinder and gentler toward refugees and asylum seekers.

I do want to point out that there are many, many places in which the Country Reports get it exactly right, even when getting it right may be diplomatically awkward. For instance, the report on the United Kingdom is once again dominated by abuses specific to Northern Ireland. It gives the government credit for agreeing to a new investigation of the Bloody Sunday massacre, but notes that the government still refuses to investigate the killing of defense lawyer Patrick Finucane. It also makes clear that the Royal Ulster Constabulary is still using plastic bullets in Northern Ireland, even though they are illegal everywhere else in the United Kingdom. I have long maintained that human rights must be central to the peace process in Northern Ireland, and I hope this report will be a wake-up call to the government of the U.K. and all the other parties to the peace process, that although much progress has been made, much remains to be done.

On the whole, the State Department's Bureau of Democracy, Human Rights, and Labor has done an excellent job on this year's reports. If United States foreign policy is to promote American values, we need to start by stating the facts honestly in the context of those values. Frankly, I believe the reports would be even better if the Department would give the Human Rights bureau more respect and more resources. The Department has not yet given us the bureau-by-bureau breakdown for the Fiscal Year 2000 budget request, but I strongly suspect it will be no different from last year's budget, in which the Human Rights bureau is grossly undervalued compared to bureaus charged with advancing other concerns. The Bureau is smaller than the State Department's Public Affairs office, smaller than the Protocol office, and far smaller than the regional bureaus. Last year the Bureau's budget was about two/one thousandths --- that's one/fifth of one percent --- of the State Department's budget. That means there are far fewer people whose principal task is human rights protection than there are who are primarily concerned with trade promotion, immigration enforcement, or just generally fostering good relations with whatever regime happens to be around and that each of those human rights defenders has

fewer resources for travel, computers, support, and everything else that is necessary to get the job done. In previous years we have asked the Department to correct this gross disparity through administrative action. Perhaps it is now time for a legislative solution to the problem. We need better resource allocation so that we can have a foreign policy that better reflects the values of the American people.

CYNTHIA A. MCKINNEY
8TH DISTRICT, GEORGIA

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Statement of Representative Cynthia A. McKinney
Ranking Member, Subcommittee on International Operations
and Human Rights
February 26, 1999

Like our chairman, Mr. Smith, I believe that it is highly appropriate that the first session of our subcommittee in this Congress, and the first session which I have been privileged to attend as Ranking Member, should be convened to review the 1998 Country Reports on Human Rights Practices. I wish also to greet Assistant Secretary Harold Koh in his first appearance before us, as well as the representatives of the distinguished human rights organizations from whom we will also be hearing.

As the Country Reports are clearly the most compendious public document produced by the Department of State every year, so the issues with which they deal are among the most important that our government faces in the conduct of its foreign policy. Human rights in the past has been considered by some a "soft" issue—one not really fit to be considered by the realists who form foreign policy on the basis of national interests. Over time, however, we have come to recognize that governments that treat their own people badly are not likely to treat foreigners much better, and therefore that it is both easier and safer to work with governments that respect human rights. We have even discovered that countries where labor rights are respected tend to have happier and more productive workers. Observance of human rights has thus become not merely an airy ideal for us to urge on others but a very practical consideration in the way we do business ourselves, both as a government and in the economy.

Perhaps the most important reason for this change lies in the legislation that established these reports a quarter-century ago and created the apparatus in the Department of State to produce them. The necessity to produce the reports has been and continues to be one of the most important imperatives that drives the work our Embassies do overseas. We in Congress recognize the enormous burden of work represented in the thousands of pages of reports we are receiving today. We are grateful for the dedication and effort, often under conditions of some risk, that has gone into these reports. We only wish to reassure those involved that the result is emphatically worth the labor. It does make a difference, and it will continue to do so.

Among those who are involved in making that difference, no one works harder than the staff of the Bureau of Democracy, Human Rights, and Labor (DRL). In regard to this bureau, I wish emphatically to agree with Mr. Smith on the generally high quality of the Bureau's work and the ongoing problem in getting it the resources that work should command. While the Department has increased DRL's resources marginally over the last few years, it is still far from being the bureau it ought to be. Clearly the Bureau's resource position should reflect the importance of the issues with which it deals; and I will work with Mr. Smith and with the other members of this subcommittee to seek a solution to this problem.

I will defer discussion of most of the particular reports, but I do want to draw attention to the one on Sudan. It somehow seems that whenever we think the situation there could not get worse, it does. This year's report continues the dismal catalogue of murders and state-sponsored attacks on black Africans in the south of Sudan and in neighboring countries, such as Uganda. What is also striking is the failure so far of diplomatic efforts to resolve these problems through the process of the Intergovernmental Authority for Development (IGAD) initiative. I believe we need to look for more vigorous efforts to deal with the root causes of the terrible devastation in Sudan, which has cost so many hundreds of thousands of lives.

I also wish to draw attention to two particular cases that deserve vigorous intervention. According to the report on Sudan, Father Hillary Boma and Father Lina Tyano, two Catholic priests, were tried in a military court for alleged involvement in setting off bombs in Khartoum. Whatever statements they gave in this matter were made under coercion. The report makes clear that they face an extraordinary punishment: crucifixion. The idea that any government on this planet would torture confessions from priests so it could crucify them is so macabre as hardly be believable. This case is one of the most extraordinary in the long catalog of disasters in these reports, and we need to make it a headline issue in our dealings with the Sudanese government.

Once again, I wish to express my thanks to Mr. Koh, to his staff in DRL, and to all the Embassy officers whose consistent attention to human rights issues has made these reports possible. We are the only government that does this sort of thing. Certainly the wide scale of our diplomatic representation makes us the only government that could, but that is not the only issue. That we could do so does not mean we would. It took a considered decision by Congress and the executive branch to give human rights its current degree of prominence. In making this decision and continuing to act on it, all of those involved have said a very good thing about what this country is about. I look forward to working on these issues in that spirit.

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1998

TESTIMONY OF
THE HONORABLE HAROLD HONGJU KOH
ASSISTANT SECRETARY OF STATE
FOR DEMOCRACY, HUMAN RIGHTS AND LABOR

BEFORE THE
SUBCOMMITTEE ON HUMAN RIGHTS ON INTERNATIONAL OPERATIONS
AND HUMAN RIGHTS
U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1999

Mr. Chairman and Members of the Committee, today's hearing marks the first time that I have had the honor to present to Congress the *Annual Country Reports on Human Rights Practices*. I submit these 1998 reports proudly, in accordance with a prime statutory responsibility given by the Foreign Assistance Act to the State Department's Bureau of Democracy, Human Rights and Labor, which I have headed since November. In 1977, shortly before these reports were first issued, President Carter gave their rationale in his inaugural address: "Because we are free," he said, "we can never be indifferent to the fate of freedom elsewhere."

The goal of these reports is simple: to tell the truth about human rights conditions around the world. We aim to create a comprehensive, permanent, and accurate record of human rights conditions worldwide in calendar year 1998. These reports form the heart of United States human rights policy, for they provide the official human rights information base upon which policy judgments are made. They are designed to provide all three branches of the federal government with an authoritative factual basis for making decisions relating to foreign aid allocations, diplomatic initiatives, asylum decisions, training, and a host of other official decisions.

Having studied and used these reports long before I entered the government, I have been struck by the development in their comprehensiveness and accuracy during the 22 years since the first report was issued. The first report ran only 137 pages and covered only those countries receiving U.S. foreign aid. This volume we submit to you today represents the largest ever, covering 194 reports and totaling more than 5000 pages in typescript. This year, thanks to the astonishing and expanding power of the Internet, we would expect the report to be even more

widely and quickly disseminated. When last year's report was placed on the World Wide Web, over 100,000 people read or downloaded parts of it in the first few hours of the first day of publication.

These reports represent the yearly output of a massive official monitoring effort that involves hundreds of individuals, including human rights officers from each of our embassies, country desk officers from our regional and functional bureaus, officials from other U.S. government agencies, and a wide range of foreign sources—including foreign government officials, opposition figures, journalists, nongovernmental organizations, dissidents, religious groups, and labor leaders. The simple act of compiling this information can be dangerous to human rights defenders and embassy officials around the world who take great risks to acquire and communicate to us accurate data and documentation on governmental abuses. All of this work is overseen by my colleagues at the State Department's Bureau of Democracy, Human Rights and Labor who helped to research, draft and edit the *Country Reports*.

This is my first year to be directly involved in this mammoth undertaking. Having now seen the process from the inside, I can attest to the countless hours of hard work that go into making this report a reality. Let me pay tribute to Secretary Albright, under whose leadership the coverage of the Reports has greatly expanded to include broader coverage of such key issues as worker rights, women's rights, the rights of the disabled, and religious freedom. Let me also thank the hundreds of State Department officers who have worked on these reports, and to the many outside the Department who have provided necessary information to this endeavor. I must pay special tribute to the splendid and dedicated country reports team in my own bureau and especially its talented and committed director,

Marc Susser, for bringing this report to fruition with such care and integrity.

Most important, we thank this Committee for its time and attention to the release of the 1998 report. In particular, our efforts have been aided this year by a change in the due date for the submission of the report to Congress. We greatly appreciate the Committee's efforts to secure this added time, and hope that the extension will be enacted permanently. As someone who assumed my new post pledging to work closely with Congress toward our shared goal of promoting respect for human rights, I welcome and admire this Committee's bipartisan support for human rights.

I. THE YEAR IN REVIEW

A report of this magnitude is not easily summarized. Before turning to a number of countries of special interest to committee members, let me highlight four focal points of the introduction of the report: democracy, human rights, religious freedom, and labor.

What makes this year particularly special, Mr. Chairman, is that fifty years have now passed since the *Universal Declaration of Human Rights* first proclaimed that all human beings are "free and equal in dignity and rights." As Secretary Albright recently noted, the intervening years have taught that "democratic governance is not an experiment; it is a right accorded to all people under the Universal Declaration on Human Rights."

Although Article 21 of the Declaration provides that "the will of the people shall be the basis of the authority of government . . . expressed in periodic and genuine elections," many governments continue to deny their citizens the right to democracy: the basic right to choose their own government. As this year's report chronicles, in too many countries, leaders speak of democracy, yet rig elections, suppress dissent, and shackle the press.

As these reports make clear, the right to democratic governance is both a means and an end in the struggle for human rights. Freedom of conscience, expression, religion, and association are all bolstered where democratic rights are guaranteed. Rights to a fair trial and to personal security are enhanced in genuine democracies. Genuine democracy and respect for human rights also represent the best paths for economic growth. Elected leaders gain legitimacy through the democratic process, allowing them to build popular support, even for economic and political reforms that may entail temporary hardships for their people. For a time, an authoritarian development model may generate prosperity, but cannot sustain it in the face of corruption, cronyism, and the continued denial of citizens' rights.

Contrast Indonesia, where last year a Soeharto regime lacking both accountability and transparency saw an economic downturn quickly deteriorate into a political crisis, with the Republic of Korea, where genuinely democratic elections gave new President Kim Dae Jung - a former political prisoner - the popular support he needed to implement austerity measures and economic reforms. These events confirmed, even in times of economic crisis, that "Asian values" are consistent with respect for democracy, human rights, and the rule of law.

Since the fall of the Berlin Wall, the number of democracies worldwide has nearly doubled: by one measure, growing from 66 to 117 in less than ten years. At the same time, some traditionally repressive governments, such as China and Cuba, have granted their citizens greater individual authority over economic decision-making, but without accompanying relaxation of controls over peaceful political activity. These cases show that economic freedom cannot compensate for the lack of political freedom. A right to democracy necessarily includes a right to democratic

dissent: the right to participate in political life and advocate the change of government by peaceful means.

The United States must support democracies over the long haul. We foster the growth of democratic culture wherever it has a chance of taking hold. We focus particularly on providing support for countries in transition, defending democracies under attack, and strengthening the network of established democracies. We do so not just because it is right, but because it is necessary. As history shows, democracies are less likely to fight one another and more likely to cooperate on security issues, economic matters, and legal initiatives. Our own security thus depends upon the expansion of democracy worldwide, without which repression, corruption, and instability would almost inevitably engulf countries and even regions.

During the year just ended, the dangers of such instability were illustrated in the disturbing trend toward the widespread abuse of civilians trapped in conflict, particularly in countries facing internal insurgencies or civil war. As these reports chronicle, in several countries, insurgent movements and government forces worldwide resorted to murder, rape, and other human rights abuses and crimes against humanity. Tens of thousands of men, women, and children died not only because of conflict, but also from premeditated campaigns designed to wreak havoc terror on civilian populations.

How should the United States promote democracy? Let me suggest three ways. First, we must support a free and independent media. Democracy depends not just on unfettered minds, but also on an informed electorate. Only a free media - whether print, broadcast, or electronic - can guarantee that citizens have access to the information they need to make political decisions. If a government can control information or limit press freedom, it can preordain elections, stunt civil society and manipulate the judiciary. Throughout the world,

journalists risk harassment, arrest, imprisonment and even death to get the story told. Indeed, according to the Committee to Protect Journalists, homicide is the leading cause of death on the job among journalists worldwide.

Second, we must support equal participation of all citizens in democratic life. Democracy does not mean the tyranny of the majority. Genuine democracy requires that a government protect the rights of all of its citizens, particularly in states with substantial minorities. Governments that choose to ignore or repress the rights of individuals because of their race, sex, religion, disability, language, or social status not only undermine the principle of democracy but also risk violence and separatism. In 1998, the situation facing women in Afghanistan represented perhaps the most severe abuse of women's human rights in the world today. The Taliban's blatant abuse of women included public beatings, devastating disregard for the physical and psychological health of women and girls, drastically limited access to medical services and hospitals, and severe cutbacks on access to education. Women cannot work outside the home, except in extremely limited circumstances in the medical field. These problems were further exacerbated by the fierce civil war, which left many women as their family's sole breadwinner and forced many to beg on the streets to feed their children.

Third, 1998 confirmed that democracy means far more than just elections. Government "of the people" cannot be imposed from the outside. As Secretary Albright has noted, "[D]emocracy must emerge from the desire of individuals to participate in the decisions that shape their lives Unlike dictatorship, democracy is never an imposition; it is always a choice." The slow development of democracy in some newly independent states in 1998 demonstrated that elections should be regarded not as an end in themselves, but as the means by which to establish a political system that fosters the growth and self-fulfillment of its

citizens by promoting and protecting their political and civil rights.

Two other important themes run through these country reports. First, Article 18 of the Universal Declaration protects everyone's "right to freedom of *thought, conscience, and religion*; this right includes freedom . . . to manifest his religion or belief in teaching, practice, worship and observance." By so saying, the Declaration recognizes that religious freedom is both a universally recognized human right and an essential component of democratic culture. Nearly all states acknowledge the principle of religious freedom. But as these reports demonstrate, in too many countries, governments refuse to respect this fundamental right, discriminating against, restricting, persecuting, or even killing those whose faith differs from that of the majority population. To address these problems, last year Congress passed, and the President signed into law the International Religious Freedom Act, which created an Office of International Religious Freedom now housed in our Bureau. Although that law mandated a parallel set of country reports on international religious freedom to be submitted on September 1, 1999, the reports I submit today extensively document abuses of religious freedom worldwide.

Second, Article 23 of the Universal Declaration states that "Everyone has the *right to work*, to free choice of employment, to just and favorable conditions of work and to protection against unemployment." Free trade unions around the world have played a critical role in promoting and defending democracy in the Cold War era, and working to eliminate exploitative forms of labor and to bring about more equitable distribution of economic benefits. Unfortunately, as these reports illustrate, numerous states interfere with worker rights to associate, work, and unionize and authorize or condone exploitative labor practices. To redress such practices, as Secretary Albright recently noted, the United

States Government is "working through the International Labor Organization to raise core worker standards, and to conclude a treaty that would ban abusive child labor anywhere in the world."

II. KEY COUNTRIES

Mr. Chairman, Members of the Committee, these are the key themes of our 1998 Reports: democracy, human rights, religious freedom, and labor. The introduction to the *Country Reports* contains our detailed assessment of how these themes played out. Let me caution that we consider it imperative to focus public attention on violations of internationally recognized human rights standards whenever and wherever they occur. We resist repeated requests to rank order countries from "best" to "worst" human rights violators. I will be happy to discuss any individual country in greater detail during the question period. But because time is short, let me now briefly touch upon a handful of countries in which Committee Members have expressed especially keen interest.

In China, the Government's human rights record deteriorated sharply at the end of 1998 with a crackdown against organized political dissent. The loosening of restrictions on political debate and activism by authorities for much of 1997 and 1998, including public calls for political reform and expressions of opposition to government policies, abruptly ended in the fall. Dozens of political activists were detained for attempts to register a political party and three leaders were given harsh sentences in closed trials that flagrantly violated due process.

The Government also took steps to strengthen control over both print and broadcast media and increased monitoring of the Internet. In addition, authorities banned a popular but politically sensitive book series and other publications, closed several newspapers, fired editors and writers, prevented attempts

to organize workers, and promulgated new restrictive regulations on social organizations. Coercion in family planning practices, including instances of forced abortion and sterilization, continued. These developments overshadowed the Government's October signature of the International Covenant on Civil and Political Rights (ICCPR).

Unapproved religious groups, including Protestants and Catholics, continued to experience degrees of official interference and repression that varied from region to region, and locality to locality. In some areas, authorities guided by national policy made strong efforts to control the activities of unapproved churches; religious services were broken up and church leaders or adherents were detained and, at times, reportedly beaten. At year's end, some remained in prison because of their religious activities. In other regions, registered and unregistered churches were treated similarly.

In Tibet and Xinjiang, the Government intensified controls on religious practices and fundamental freedom, and moved to suppress religious manifestations that advocate independence or any expression of "separatism." The Government renewed its rhetorical campaign against the Dalai Lama, and stepped up a reeducation campaign aimed at monks and nuns. There were reports of imprisonment and abuse or torture of monks and nuns, the death of prisoners, and the closure of several monasteries. Despite repeated international expressions of concern about the welfare and whereabouts of the boy designated by the Dalai Lama as the Panchen Lama, the Government refused access to him by international observers.

In Cuba, despite the Pope's visit early in 1998, the government of Fidel Castro continued to exercise control over all aspects of Cuban life and to suppress ruthlessly all forms of political dissent. Authorities routinely engaged in arbitrary detention of human rights advocates and independent journalists,

subjecting them to interrogations, threats, and degrading treatment. Nineteen months have passed since the Cuban government imprisoned the four founders of the Internal Dissidents' Working Group - economist Marta Beatriz Roque Cabello, professor Felix Bonne Carcasses, lawyer Rene Gomez Manzano, and social democratic activist Vladimiro Roca Antunes - for non-violently exercising their rights to freedom of expression and association. Only in September 1998 did the Cuban Government finally charge them with "sedition," recommending sentences of five to six years, and at year's end, they still had not been brought to trial.

In Serbia, the human rights situation also deteriorated sharply. The regime of Yugoslav Federal President Slobodan Milosevic used the military, police, judiciary, and state-controlled media to strangle dissent throughout Serbia and to promote support for a brutal crackdown on civilians and separatist insurgents in Kosovo. Serbian police and military forces committed widespread abuses against Kosovo's ethnic Albanian population, including massacres of unarmed civilians, the torching and looting of homes, arbitrary arrests, and torture and brutal beatings in detention. By year's end, the violence in Kosovo had left about two thousand people dead - the vast majority of whom were unarmed ethnic Albanian civilians - displaced close to 180,000 individuals, and triggered the worst regional political and military crisis in Europe since the end of the conflict in Bosnia-Herzegovina. Albanian insurgents in the Kosovo Liberation Army also committed abuses against Serbs, who, while a majority in Serbia, represent a minority in Kosovo.

In Sierra Leone, rebel forces killed and maimed with extraordinary cruelty. While retreating from Freetown to the interior, the rebels left behind a trail of murder, mutilation, rape, abduction, and destruction. The insurgents decapitated, burnt alive, and inflicted bullet and machete wounds.

Particularly appalling were the amputation of ears, noses, hands, arms, and legs of civilians - including small children and the elderly - and the abduction, torture, and conscription of children into rebel forces, where they were forced to participate in rebel atrocities.

In Indonesia, the Government's human rights performance did improve after the resignation of President Soeharto. It endorsed broader press freedom, released numerous political prisoners, and opened the door for genuine political pluralism and elections that are scheduled for this Spring. We remain deeply concerned, however, by the high levels of violence: inter-communal conflict, the shooting of peaceful demonstrators by security forces, and the terrible attacks on Sino-Indonesians, especially the rapes of ethnic Chinese women and girls during the May riots. The Government has not thoroughly investigated these abuses, nor has it consistently held perpetrators accountable. We are fully committed to supporting Indonesia's transition to democratic governance, a transition that Secretary Albright has identified as a priority.

In Nigeria, after the June death of General Sani Abacha and his succession by General Abubakar, the Government launched a program to restore democracy by May 1999. Over the second half of the year, the Government released political prisoners, allowed independent political parties to form and permitted independent journalists greater freedom. In August, the Government scheduled a series of elections - for local government officials, state legislators and governors, national legislators, and president - to be held between early December 1998 and late February 1999. Although marred by scattered violence and local irregularities, the December elections for local government officials were generally free, fair, and open. We congratulate the Nigerian people on the peaceful conduct of last Saturday's national legislative elections, the third of four polls scheduled in the

transition to civilian rule. We join the people of Nigeria in hoping that this series of elections can pave the way to a democratic civilian government that protects and promotes human rights.

III. CONCLUSION

Mr. Chairman, Members of the Committee, the Universal Declaration promised a world where "all human beings are born free and equal in dignity and rights." Yet, as this brief survey demonstrates, half a century later, the world still has a long way to go before it fulfills this promise. The past year confirmed that the best path to accomplishing that goal remains through the establishment of democratic governments. The right to democracy thus stands both as a part of, and an essential means to guarantee, universal human rights principles.

In the past ten years alone, the number of electoral democracies has almost doubled, in good measure because democratic institutions offer the best guarantee of respect for human rights as well as the best chance to improve the lives of average citizens. As Vice President Gore said recently, "History has taught us that freedom - economic, political, and religious freedom - unlocks a higher fraction of the human potential than any other way of organizing society." The past year confirmed that democratic governance, human rights, religious and labor freedom, remain inextricably intertwined with prosperity and security.

Thank you.

Amnesty International Testimony

**on the Department of State Country Reports on Human
Rights Practices for 1998**

**Before the House Committee on International Relations
International Operations and Human Rights Subcommittee**



Presented by

**Stephen Rickard,
Director, Washington Office
Amnesty International USA**

February 26, 1999

Introduction

Mr. Chairman, thank you for inviting Amnesty International USA to testify before your subcommittee on the important topic of the annual *Country Reports on Human Rights Practices for 1998*. Once again this year I commend you for conducting this important oversight hearing. I would like to request that the full text of my written statement be made a part of the record of this hearing. I will summarize it in my oral presentation.

This is also an appropriate point to publicly welcome to his new post, Assistant Secretary Harold Koh and to express our appreciation for the dedicated work of his predecessor, John Shattuck. Whatever quarrels we have with the Administration – and I plan to discuss some of them – we know that there are many dedicated and unsung US officials working long and hard to combat human rights violations and that they are hard at work throughout “the building” and in US embassies abroad.

Litmus Tests for Candor

As is customary for this hearing, Mr. Chairman, we received copies of the *Country Reports* late last night. A full and careful examination of them will take time. What we can offer today are first impressions, particularly on a number of key indicators that we might call “litmus tests for candor.” They consist of those parts of the reports where there was likely the greatest pressure or psychological temptation to be less than candid in criticism. It is important to be accurate and comprehensive in assessing the human rights situation in the Seychelles Islands. But there is probably more internal and external pressure to see the glass as more than half full in China.

Let me be clear. When I speak of a lack of “candor”, I do not mean to imply, in any way, that when the reports suffer they do so because Administration officials knowingly distort the truth, much less lie. Others may believe that, but I don't. It may happen sometimes, but the reality is almost always more subtle and “human” than that. It is a cliché, but true nonetheless, that too often, “where you stand depends upon where you sit.” Human perception is inevitably colored by what we *wish* to see. And we in the human rights community must be absolutely rigorous in our methods and open to criticism and debate for exactly the same reason. So, I do not doubt that last year, when many Administration officials seized on each tidbit of good news out of China, some came to see it as a major trend. But they were wrong, as this year's events have shown. And that is why we need to have hearings like this and a strong and independent Bureau of Democracy, Human Rights and Labor (DRL) and a vigorous, independent human rights community.

I offer the following "litmus tests" for candor in this year's *Country Reports*:

China – The China report has become, quite simply, the bellwether of the *Country Reports*, the "canary in the coal mine" warning whenever the toxic effects of policy infiltrate and undermine the objectivity of human rights reporting. Particularly in the "Introduction" section, how does the Administration portray the overall human rights situation in China? Two years ago the Administration set for itself an outstanding benchmark for candor, stating elegantly and accurately: "All public dissent against the party and government was effectively silenced...." Last year was very different. It was obvious that there was a concerted effort to highlight every positive development and to remove any similarly damning "soundbite" from the Introduction. How did they do this year?

Turkey – With two US companies competing for a \$3.5 billion helicopter sale in Turkey, did the Administration soft-pedal human rights criticisms?

Israel and the Palestinian Authority – Notwithstanding President Clinton's enormous personal investment in the Wye Agreement, was the Administration candid about the use of torture by the Palestinian Authority and the Israeli government and about the Israeli government's dangerous effort to redefine "torture"?

Nigeria – Was the Administration candid about continuing problems in Nigeria under the new regime and open about the role of US corporations there?

Colombia – Is the report clear and explicit about the links between the Colombian military and paramilitary organizations and does it "name names" of Colombian officers implicated despite the pressure to increase military cooperation with Colombia to combat narcotics trafficking?

Mexico – Is the report more candid than the annual drug control certification process in describing the problems of corruption, the lack of rule of law and the complete impunity from prosecution enjoyed by officials who use torture?

I will discuss each of these litmus tests, but first I would like to make a number of general observations and recommendations.

Human Rights Heroes

Every year when we meet to discuss the *Country Reports* I begin by making two points. And I want to make them again this year, with apologies to you Mr. Chairman and to my colleagues for having to hear them once more. The first point is that while the *Country Reports* are obviously a chronicle of brutality, they are also a testament to courage and hope. They prove that thousands of people from every culture and on every continent are willing to struggle for human dignity even at the risk of death. They prove that no amount of terror or tyranny can snuff out the human hunger for freedom.

What should be the US response? Once again I'm reminded of the appeal made by a character in John LeCarre's novel *Russia House*: "Promise me that if I ever find the courage to think like a hero, you will act like a merely decent person." There are *real* heroes risking their lives in China, in Burma, in Nigeria, in Mexico. The only *decent* response is to give them our vigorous support.

Human Rights – Still An Island

The second point that I make every year, borrowing a line from my predecessor is that human rights is *still* an island off the mainland of US foreign policy.

President Clinton's human rights policy remains maddeningly inconsistent. We continue to appreciate his and Secretary Albright's strong support for the Rwanda and Bosnia war crimes tribunals. That praise is tempered, however, by deep disappointment over the US failure to join virtually every US ally and the overwhelming majority of nations on earth in supporting the creation of a permanent International Criminal Court. It is tempered by the Administration's silence over the possibility of bringing General Pinochet to trial for crimes against humanity, including alleged complicity in the murder of a US citizen right here in our nation's capital.

The US provides substantial funds for de-mining activities, but next Monday, March 1st, most of the rest of the world will celebrate the entry into force of a new treaty banning all landmines – while the US sits on the sidelines. Even worse, according to press reports, the Administration is considering requesting \$50 million to develop *new* landmines!

The Administration claims to be concerned about the 300,000 child soldiers around the globe, yet the US is staunchly opposing an international effort to ban the use of recruits under the age of 18.

The Administration talks tough on human rights – and rightly so – when it comes to a host of pariah countries. It raises the issue – to its credit – in many bilateral dialogues, including those with major countries. But over and over again it gives foreign officials every reason to be confident that at the end of the day other issues will be more important to the US than human rights.

Positive Steps

I would, however, like to highlight two particularly positive steps taken by the Clinton Administration in 1998. The first is that on the 50th anniversary of the Universal Declaration of Human Rights, President Clinton issued an important Executive Order creating an interagency working group on the implementation of international human rights treaties which the United States has ratified. Why is this important? In a sense, it shouldn't be. The United States – with the full advice and consent of the Senate – has already promised our treaty partners that we will live up to our obligations under these

treaties. Why should it be important – much less controversial – for the President of the United States to say that the US will do what the President and the Senate long ago said the US would do? Because actually fulfilling those obligations requires a high-level *commitment* from the President and US domestic policy agencies and a *process* for implementation which the US has never had. That is why President Clinton's Executive Order is an important statement about the integrity of the United States, including the Senate, and our commitment to do what we said we would do.

Second, as I noted last year, the Congress has taken an extremely important step in building a bridge between these *Country Reports* and US policy. The Congress adopted the Leahy Law, which makes it illegal to provide foreign operations funds to a security force unit if the Administration has credible evidence that members of that unit have committed gross human rights violations. Only if the government in question takes effective steps to bring the responsible individuals to justice can the unit begin receiving aid. This important new provision requires that the Administration establish vetting and monitoring procedures that links human rights reporting to policy as a matter of law.

I would again offer thanks to Chairman Gilman for his contributions to this law. Due to his insistence, this provision was modified to require the Administration to provide information to foreign governments regarding human rights violations and to assist them in bringing gross human rights violators to justice in any case in which the Leahy Amendment is invoked. What we might call "the Gilman Law" links human rights reporting and law enforcement against violators in an unprecedented way.

In 1998 a number of US embassies took important steps to implement the Leahy Law. For instance, three years ago Amnesty International revealed that the US government was well aware that 13 Colombian army units specifically linked to gross human rights violations by Amnesty were receiving lethal US military assistance. Today there is a process in place in Colombia to vet and monitor the use of US military assistance.

Also, we applaud the decision of Secretary of State Albright to refuse to permit US tax dollars to subsidize the sale of armored personnel carriers to Turkish national police units in 11 Turkish provinces where they are known to be committing gross human rights violations. Most Americans would be shocked to learn that the US government was even considering using tax dollars to subsidize the sale of military equipment to units which, in one reported instance, tortured a two-year-old child with cigarettes in front of his mother. Thanks to the Leahy Law and Secretary Albright, and despite intense industry lobbying, no US funding was provided for units in these provinces.

Linking Human Rights Reporting to Human Rights Policy

With your indulgence, Mr. Chairman, I'd like to take a few moments to make a number of concrete recommendations about how the Congress and the Clinton Administration could strengthen human rights reporting and the Bureau of Democracy, Human Rights and Labor (DRL). I would also like to suggest some very concrete ways

in which human rights reporting could be linked much more directly to US policy in the field.

Guarantee that DRL receives at least ½ a percent of the State Department budget. It may shock people to learn that this is not already the case, but, unless I'm reading the figures wrong, if Secretary Albright was willing to devote just one 200th of her total budget to the human rights bureau it would represent a significant increase in its operating budget. Right now DRL lacks even a basic level of travel funds to get its officers out into the field. It's my understanding that it was the last bureau in the Department to replace the archaic Wang computer system with modern units. Congress had to force the Department to *create* the human rights bureau; it may have to take a stronger hand in insisting that it be adequately funded.

Take one percent of all US military aid to fund a Foreign Aid Accountability Project. The funds would be jointly administered by DRL and GAO who would insure that there are adequate mechanisms to monitor and verify how US military assistance is used. Year after year, GAO writes reports documenting that US embassies cannot adequately monitor US military and counternarcotics aid. At embassy after embassy, State Department officials complain that they lack the resources to fulfill Congressional, NGO and taxpayer demands for accountability. Simply put, if we are going to give people guns, helicopters and military training, we ought to take one penny out of each dollar to make sure that we know what they are doing with them.

Create a formal process to implement the Leahy Law. As I've stated, the Leahy Law links human rights information in the Department's possession to US foreign aid decisions *by law*. But it is only triggered when the Department receives "credible evidence" linked to specific security force units. To make this process work, the Department needs to engage the human rights NGO community in a rigorous, substantive way. The Department should hold quarterly Leahy Law Implementation meetings, chaired by the Assistant Secretary for Human Rights, to review the overall implementation and functioning of the law. In addition the Department should create one regional "subcommittee" for each of the Department's regional bureaus to conduct quarterly meetings with relevant NGO representatives to review the available human rights information for that region. The regional subcommittees should be jointly chaired by a representative from the regional bureau and DRL.

Evaluate human rights reporting in the field. DRL should immediately notify all regional bureaus and overseas posts that following the next *Country Reports* it will submit comments – pro and con – concerning the human rights reporting supplied by the responsible officers at embassies abroad for consideration in those officers Efficiency Evaluation Reports, or EERs. DRL is heavily dependent upon political officers abroad to provide regular, detailed and reliable human rights reports. It should commend excellent reporting, with examples, in a way that is most meaningful to career officers: in written commendations to be included in the annual EER. Likewise, where there has been a decrease in the quantity or quality of human rights reporting DRL has both the right and

the duty to comment for the record on the performance of those officers in the field on whom DRL relies.

The Assistant Secretary should be permitted to hire a number of additional non-career assistants with expertise in human rights and related fields. DRL has benefited from a number of extremely competent and dedicated career foreign service officers. However, their efforts, the efforts of the Assistant Secretary and the overall functioning of the bureau would benefit significantly if a number of additional positions were created to permit specialized expertise in human rights and related fields to be brought into the bureau.

Amnesty believes that the implementation of each of these proposals would significantly improve the ability of the United States to support human rights defenders and to insure that US assistance is not provided to human rights abusers.

Human Rights in the United States

Amnesty International is in the midst of a yearlong campaign to challenge the United States to take a close look at some of its own practices. For some, the idea of raising "human rights" concerns about the United States provokes a visceral hostility which is as understandable from an emotional point of view as it is unwarranted from a substantive one. Amnesty's recommendations to the United States are, in essence, a collection of domestic and foreign policy issues that are and have been debated in the Congress and elsewhere for years. They have to do with US arms exports, the US role in multilateral negotiations, and US military training programs, like the JCET's program, the School of the Americas and the IMET program. They have to do with police brutality, the death penalty, the treatment of women in prison and the access of juvenile detainees to mental health treatment when needed.

No one would deny that these are legitimate issues and no one would seriously deny that there have been problems in all these areas in the United States. And yet, if you apply the term "human rights violations" to these problems, some people are suddenly outraged. As my colleague Elisa Massimino of the Lawyers Committee has noted, newspaper accounts about what happened to Abner Louima, a Haitian immigrant who suffered serious internal injuries after he was allegedly beaten and sodomized with a toilet plunger by New York City police officers, talk about "abuse" or "brutality." But if it had happened in a Haitian or Turkish police station the *Country Reports* would have had a different name for it; namely "torture". In fact, this year's *Country Report* for Turkey specifically lists among the torture techniques of the Turkish police "anal rape with truncheons".

Critics of Amnesty's campaign sometimes argue that other countries' offenses are some much worse that it is shocking that AI would conduct an entire campaign on the US. This ignores several important points. First, in examining the US role in intergovernmental organizations, like the UN Human Rights Commission, Amnesty is doing no more than Secretary Albright does over and over when she speaks of the US as

“the indispensable nation.” What the US does at the Human Rights Commission or in negotiations over the International Criminal Court or child soldiers, has an impact vastly beyond most other nations. US officials, pundits and columnists shouldn’t crow about the ascendancy of the US as the “sole remaining superpower” and its “unparalleled influence” and then cry “foul” when others seek an accounting for the use of that enormous power and influence.

Second, there are, frankly, at least two areas of concern where the US *is* the world “leader” (if that is the appropriate term). First, the US is now exports more weapons than any other country in the world. One study found that US arms in use in all but 3 of 42 ongoing ethnic and territorial conflicts around the world. While the European Union has at least taken the first step of adopting a Code of Conduct on arms transfers, the US has not done so. The Senate should follow the lead of the House which last year did adopt the McKinney-Rohrabacher Code of Conduct and the Clinton Administration should openly support the Code.

The other area where the US, sadly, “leads” the world is in the execution of persons for offenses they committed as juveniles. The US has executed more people for juvenile offenses – 15 – than the rest of the world combined. Even China, the number one death penalty nation in the world (the US is number two), has recently changed its law to prohibit such executions. Even death penalty supporters should be willing to ask themselves why the United States finds acceptable conduct that virtually the entire world considers repugnant.

Speaking in the Department’s Own Voice

Each year at this time the Lawyers Committee for Human Rights makes what I think is an extremely valuable point about the *Country Reports*. While the human rights community agrees in general that the quality of the reports has become much more uniform and impressive over the years, the Lawyers Committee continues to document a serious problem which remains -- the consistent failure of the Department to follow its own guidelines by not offering its own judgments about the human rights conditions in each country. All too often, when it is obvious that a particular event took place, the Department still says only that “it has been reported that...” it happened. Frequently, the Department will not even offer the comment that the report is “credible.”

There may be cases where the Department simply does not feel it can offer its own judgment. It may feel that it cannot even evaluate the credibility of the allegation or the source. But this tendency is so pronounced that it seems clear that in too many cases this has become a way to avoid the diplomatic tension which would be caused by doing what the Department’s own guidelines plainly require: publishing a direct US government criticism of a foreign government.

The examples in the new reports are just as numerous as ever.

Some Specific Countries

I would like to return now to those "litmus tests of candor" to see how the Administration performed. This is not a comprehensive examination and a generally favorable reaction does not mean that won't be many specific points on which we disagree with the Administration or other points where we think they missed the boat. The question I will try to answer is simply, on a number of the most high profile and sensitive issues, how good a job did they do?

China.

As I mentioned, two years ago the Administration won deserved kudos for its candor in the Introduction to the China report by stating that "[a]ll public dissent ... was effectively silenced...." Unfortunately, if last year's China "Introduction" passed the "laugh test," it flunked the "candor test." It illustrated the value of this annual hearing and the need to not become complacent about the overall high quality of the reports. With a presidential trip pending and a high level decision to improve relations, the China report suffered.

The new report on China is long and detailed and will take time to examine and crosscheck. The main text of the report appears in many respects the same as other reports – a useful and impressive compilation of a vast amount of information. It is difficult to comment in detail about the full text at this time.

But, to cut to the chase, the Introduction to the 1998 report takes a welcome step back toward the candor of the 1996 report. In a sense, the Chinese government gave the Administration little choice, because the human rights trends since President Clinton's trip last year have been so bad. The 1997 report begins the critical paragraph by stating "There were positive steps in human rights, although serious problems remained." This year's report states, instead, "The Government's human rights record deteriorated sharply beginning in the final months of the year with a crackdown against organized political dissent." To the list of government abuses, the Administration added extrajudicial executions and the denial of due process. Whereas last year, qualifying adjectives were softened, this year in a number of places they have been toughened. For instance, restrictions on freedom of assembly which were described last year as "tight" were modified this year to more accurately describe them as "severe". In describing discrimination against women and minorities, the Administration has added references to forced abortions and forced sterilizations. "Forced labor" is now explicitly mentioned in the sentence discussing labor rights.

While many of these issues were discussed within the body of last year's report, adding them to the Introduction – the most widely read and quoted portion of the report – is an important step to more accurately and candidly convey the overall dismal human rights situation in China today.

The Administration also deleted last year's claim that the Chinese government had become "somewhat more tolerant" of dissent, noting instead that the government moved to "nip in the bud" organized dissent and "flagrantly violated due process."

Turkey.

As I noted, last year Secretary Albright stuck to her guns and demonstrated a strong fidelity to enforcing the Leahy Law and using human rights reporting on Turkey, when she denied US Ex-Im Bank financing for the sale of armored personnel carriers to Turkish police in 11 provinces. But that sale involved about \$43 million dollars in sales. Would the Department stick to its "guns" (no pun intended) if its human rights reporting would effectively prohibit approving a \$3.5 billion helicopter sale?

The evidence from this year's report suggests that the Department did not back away from providing a stark and even terrifying catalogue of the human rights abuses committed by the Turkish military and police units. The report accurately states that: "Extrajudicial killings, including deaths in detention from the excessive use of force, 'mystery killings,' and disappearances continued. Torture remained widespread. Police and Jandarma anti-terror personnel often abused detainees and employ torture during incommunicado detention and interrogation."

Particularly chilling is the catalogue of torture techniques employed by Turkish units, including: "high pressure cold water hoses; electric shocks; systematic beatings, including on the soles of the feet and genitalia; blindfolding; hanging by the arms; sleep deprivation; vaginal and anal rape with truncheons and, in some instances, gun barrels; and other forms of sexual abuse." The report cites instances of the torture with cigarettes of a two-year-old in front of his mother, and a case of another journalist torture victim with cigarette burn marks and drill marks on his body. The report is unflinching in acknowledging that non-violent protest and freedom of expression remain criminalized in Turkey.

Because the Department has unequivocally pledged to the human rights community – and claimed to have told US defense companies the same thing – that the Department would not approve and send to Congress a helicopter sale unless there had already been substantial human rights progress in Turkey, it is impossible to imagine that the Department could approve such a sale.

Nigeria.

The report contains a strong catalogue of the offenses of the previous regime, but tends to leave the impression that the situation has been transformed under the Abubakar regime. While the report accurately portrays improvements in Nigeria under the new regime, it does not fully convey the scope and intensity of the problems that still remain. Concerning the involvement of US and other corporations in Nigeria, the report does not flunk the candor test, but neither does it pass it. In one particularly revealing passage concerning an incident in which a multinational corporation invited and provided

helicopter transportation for Nigerian security forces which then reportedly killed at least two non-violent protesters, the report coyly declines to name the company involved, stating only that it was a "international oil corporation...." In fact the Department knows and I will state for the record that the company, which actively facilitated this atrocity according to these reports, was Chevron Corporation. The Department's reports should be candid and unflinching in describing foreign government abuses. It should do no less so when US corporations are involved.

Israel and the Palestinian Authority.

Secretary Albright and President Clinton personally have invested enormous personal prestige in the Wye Agreement. Would this influence the human rights reporting in this area? We are very pleased to note that the Department has this year, for perhaps the first time (we are checking), said *in its own voice* that "Israeli security forces abuse, and in some cases *torture*, Palestinians suspected of security offenses." In the past the Department has attributed such concerns to human rights organizations. This is a major improvement, which deserves recognition.

By comparison, the report contains a long discussion about the issue of Israel's effort to redefine forms of torture as "moderate physical pressure." It notes that *others* consider these offenses torture, but it fails to state the US position on this issue. While there are many, many nations who employ gross forms of torture, the fact that the Israeli government is seeking to *redefine* forms of torture to make them openly legal and acknowledged is a unique challenge to the human rights framework about which the US should express strong and unequivocal opposition.

The Administration has been outspoken in challenging the Palestinian Authority to show "zero tolerance" for terror. Amnesty absolutely supports this position – terrorism is a gross human rights violation. However, Amnesty is concerned that the US has not provided comparable pressure on the PA to show "zero tolerance" for torture. Indeed, the pressure that the US places on the PA to arrest alleged perpetrators may be interpreted by the PA as a "green light" for torture, arbitrary arrest and detention, especially when it is not matched with equally strong and high-level criticism of human rights violations. We are pleased that the report is fairly straightforward in describing PA abuses. We would now like to see the US match its reporting with its public criticisms of the PA.

Colombia.

In the annual *Country Report* on Colombia over the last two years we have noted and applauded criticism of paramilitary killings and increasing acknowledgment of the links between the Colombian military and paramilitary units. This year's report not only continues that trend, it accelerates it. Last year the report said that "[k]illings by paramilitary groups... increased significantly...." This year the report states that "paramilitary groups murdered, tortured, and threatened civilians suspected of sympathizing with guerrillas in an *orchestrated campaign to terrorize them...* (emphasis added)." Last year the report stated that "Government authorities and academic analysts

asserted" that paramilitaries operated freely in areas under government control. This year the Department makes that correct assertion in its own voice.

Upon close examination we will doubtless have disagreements with statements contained in this report or feel that in some areas it did not go far enough. But our initial overall impression is that it is a hard-hitting report despite considerable pressure that may have been applied to reach other conclusions that would make it easier to defend increased military cooperation. The number of important judicial cases cited in the report represent an important argument for providing an additional foreign service officer to the post in order to track human rights prosecutions.

Over the last two years Amnesty has noted the claims by the US mission in Bogota that it is more closely monitoring US aid and thoroughly vetting Colombian military units receiving US assistance in order to insure compliance with the Leahy Law. As much information as possible should be made available about these efforts so that they can receive strong congressional support and increased funding if warranted. The more transparent US military assistance to Colombia becomes, the better.

Mexico.

Unfortunately, the relative candor of the Colombian report, including the increased use of the Department's own voice, is in sharp contrast to the report on Mexico. Although the report details a sorry human rights record in some detail, the report demonstrates a reluctance to directly criticize the Mexican government in the Department's own voice, particularly in the section on disappearances, which is excessive even by the standards of other sensitive reports. Likewise, the Department's overall assessment of the government's human rights record – "The government generally respected the human rights of its citizens..." – seems strongly out of step with the extensive catalogue of violations which immediately follows that conclusion.

Conclusion

Thank you again, Mr. Chairman, for the opportunity to testify. I look forward to answering your questions along with your other witnesses.



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TESTIMONY OF JERRY FOWLER

LEGISLATIVE COUNSEL LAWYERS COMMITTEE FOR HUMAN RIGHTS

HEARING ON

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1998

BEFORE THE

Subcommittee on International Operations and Human Rights COMMITTEE ON INTERNATIONAL RELATIONS U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 26, 1999

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I. Introduction

Chairman Smith and members of the Subcommittee, thank you for convening this hearing and for inviting us to share our perspective on the State Department's *Country Reports* this year. We are deeply appreciative to you for your steadfast attention to human rights issues and for your continued efforts to highlight these concerns.

My name is Jerry Fowler, and I am Legislative Counsel of the Lawyers Committee for Human Rights. Since 1978, the Committee has worked to protect and promote fundamental human rights, holding all governments — including our own — accountable to the standards contained in the Universal Declaration of Human Rights and related international human rights instruments. Our particular concern is how human rights can be protected in a lasting way by advancing international law and legal institutions, by working to build structural guarantees for human rights in national legal systems, and by assisting and cooperating with lawyers and other human rights advocates who are the frontline defenders of human rights at the local level.

The quality and accuracy of the *Country Reports* have been of great concern to the Lawyers Committee since the Department of State was first mandated to present these reports to Congress 20 years ago. For much of that time, the Lawyers Committee published an annual *Critique* of the reports, and we continue to believe that they require and benefit from critical input by the non-governmental human rights community. One of the distinguishing marks of a good *Country Report* is the degree to which it reflects extensive consultation by embassies with local human rights advocates and NGOs. And today's hearing is an important forum in which U.S.-based NGOs can critique their government's reporting after the fact and highlight changes needed for future editions of the *Country Reports*. In recent years, we have witnessed a steady improvement in the objectivity and comprehensiveness of the *Reports*, and we respect the professionalism and diligence of the many people involved in their production.

II. International Human Rights Law and the Need for Objectivity

The value of the *Country Reports* is directly proportional to their objectivity, and for that reason we have always placed a high premium on their use of dispassionate reporting criteria, based on the application of clear and consistent legal standards. The great virtue of international human rights law lies in its neutrality. It embodies a set of agreed upon standards and commands a growing international consensus. It is of universal application. Politicization is its greatest enemy. For that reason, we have always been particularly alert to two kinds of politicization which have too often undermined the integrity of the *Country Reports*.

The first of these is the tendency to shield U.S. strategic allies — countries such as Egypt, Israel, Saudi Arabia, Mexico, Turkey and the United Kingdom — from plain-spoken criticism, even when the record of their misdeeds is clear. This has manifested itself in a variety of subtle and not-so-subtle ways, including the selective reporting of abuses, the use of editorial and linguistic devices to conceal culpability, and a failure to hold governments and non-governmental entities to a single, universal standard of conduct.

The second concern is that the *Country Reports* may themselves become a politicized expression of conflicting interests within the U.S. government over human rights policy. There are two visible symptoms of this. One is when the reports are internally contradictory. The other is when a sharp discrepancy is apparent between the message delivered by the *Reports* (especially in their introductory language) and the perception of U.S. policy toward states that have been identified as serious human rights violators. In its most exaggerated form, this can lead to the *Reports* being drafted and edited with an eye to the "sound bites" that they will generate for immediate attention by the media; these in turn serve as crude indicators of policy for domestic constituencies as well as diplomatic signals to the state in question. This problem has dogged the *Country Report* on China for many years, and tomorrow's headlines can easily be predicted from the introductory language to this year's China report. Although that report is more successful than some of its predecessors at avoiding the sound-bite trap, headline writers will nonetheless lock on to phrases such as "deteriorated sharply" and "environment filled with repression." These are entirely accurate representations of the current Chinese reality, but they need to be matched with policies that effectively address problems of such magnitude. Those policies do not currently exist.

The most negative consequence of this, from the point of view of an effective and principled human rights policy, is that it conveys the impression that candor on human rights is the function of one small part of the foreign policy bureaucracy — the Bureau of Democracy, Human Rights and Labor — and not necessarily of the administration as whole. It is entirely appropriate that the Bureau should act as the focal point of the human rights effort. But it is entirely inappropriate, and often damaging to larger U.S. interests, if the Bureau's voice is seen to be marginalized, and if states are therefore able to conclude that human rights are a fringe concern of the U.S. administration that is not echoed by other, more influential government agencies such as the Departments of Defense or Commerce. This is a serious policy challenge. Its solution, of course, lies well beyond the scope of the authors of the *Country Reports*, and can only be addressed through a concerted inter-agency approach to human rights with strong direction from the White House.

III. The Events of 1998 and the Potential Role of the Country Reports

The reason why the *Country Reports* have become so politicized is because they have become so influential. We believe that the time is now ripe for this influence to be used more assertively. The comments we have made to this point in our testimony are, in a sense, perennial ones. But they take on special salience in light of the events that took place during 1998. While the introduction to the reports provides a numbing reminder of the gross human rights violations that continued to blight all too many countries, 1998 was at the same time a landmark year for the development of the international human rights movement. The year had numerous highpoints: not merely symbolic ones, such as the 50th anniversary of the Universal Declaration of Human Rights, but concrete and practical advances, such as the concluding of a treaty to create an International Criminal Court; efforts by states to assert universal jurisdiction over individuals accused of egregious crimes, such as Chilean Senator Augusto Pinochet; and the adoption by the UN General Assembly in December of the Declaration on Human Rights

Defenders. In sum, this was a year that demonstrated, in a variety of ways, that international human-rights law is no longer merely an aspiration, but an enforceable reality.

Previous editions of the *Country Reports* have spoken eloquently of the need to build "international institutions of justice," and of the crucial role that the United States can play in strengthening multilateral efforts to expand the reach of international law and end impunity for human rights violators. Disappointingly, the introduction to this year's *Country Reports* declines to address these larger historical trends, which were so vividly apparent during 1998. The introduction properly highlights a number of U.S. initiatives which coincided with the 50th anniversary of the Universal Declaration, of which the most significant was the President's Executive Order strengthening the government's ability to implement the human rights treaties to which the United States is a party. This, as Assistant Secretary Koh points out, will help "ensure that the United States embraces at home what it advocates abroad." But in other respects, the introductory overview limits itself to listing trends in particular categories of violations, rather than discussing the strategic remedies that the international community may now be able to work towards. We regard this as a missed opportunity.

IV. Specific Country Concerns

In singling out three countries for special comment today, we are not merely reasserting our longstanding concern for the integrity and even-handedness of the *Country Reports*. Mindful of the advances that were made internationally during 1998, we are eager to see the Country Reports realize their potential role as a stimulus to the further strengthening of international human rights law and its enforcement.

In China, Turkey and Serbia-Montenegro (especially in relation to the province of Kosovo), widespread and persistent human rights violations continued throughout 1998. The conduct of each of these three states presents a frontal challenge to the integrity of the international human rights treaty regime and of the institutions that the international community has established to enforce compliance with human rights norms. And in each instance, the nature of the response by U.S. policymakers will have profound bilateral, regional and even global ramifications.

A. China

As noted above, the China report speaks bluntly, and accurately, of the renewed display of intolerance of political dissent by the Chinese authorities during 1998. The report properly focuses on the crackdown after November on those attempting to register an alternative political party, and observes that their "closed trials flagrantly violated due process." To its credit, the report is not content merely to deplore these failures of due process, but discusses at some length the systemic legal failings that account for them. The analysis of the partial reform of China's Criminal Procedure Law is particularly useful, and correctly focuses on the importance of the law's implementation. This topic, which will be the subject of a report by the Lawyers Committee later this year, merits considerable attention in the 1999 *Country Reports*.

In the same vein, future reports should maintain their focus on the range of other laws, such as the Administrative Litigation Law, the State Compensation Law and the Lawyers Law, all of which — to the degree they are implemented — have the potential to enhance the rights of Chinese citizens vis-à-vis the state. Given this emphasis on systemic legal problems, which should serve as a model for all the *Country Reports*, the report provides a surprisingly sketchy treatment of two key legal reforms whose impact on balance has been quite negative.

The first of these is the substantive Criminal Law, which is mentioned only in passing to note the redesignation of “crimes of counterrevolution” as “crimes endangering state security.” The report unfortunately fails to discuss how the relevant provisions actually *increase* the capacity of the authorities to criminalize internationally protected activities. At the same time, the report passes up the opportunity to comment on the most promising aspect of the Criminal Law reform — its removal of the former provisions on analogy, which made it possible for Chinese citizens to be tried for acts that were not criminalized under any statute.

The second disappointing area is the report’s discussion of recently promulgated regulations on the NGO sector in China. As it notes, these impose a variety of new obligations on those seeking to register as non-governmental organizations. Unfortunately, in its flat and technical language, the report appears to have no opinion on the degree to which these restrictions impose unreasonable burdens on civil society in China or contravene existing international norms on freedom of association. As China struggles with unfathomable economic, social and environmental challenges, nothing is more important to its future stability than freedom of association and the free development of critical voices in the non-governmental sector. Future reports should rectify this weakness. Unfortunately, the superficial treatment of freedom of association, especially for domestic human rights advocates, remains a persistent weakness of many of the *Country Reports*. It is particularly disappointing that this should remain the case in the year that the UN General Assembly adopted the Declaration on Human Rights Defenders, which breaks new ground in defining an international consensus on the content of the right to freedom of association.

As China grapples with its ongoing legal reform process, and as Chinese citizens acquire greater consciousness of their rights, a central question before the U.S. government is how outsiders can best contribute to moving that process in the direction of greater compliance with international human rights standards. As the report notes, China now has “active human rights dialogs with a large number of countries,” and last September “hosted the first visit by the UN High Commissioner for Human Rights.” The content of these exchanges, the extent to which they can serve as an effective mix of engagement, critique and pressure to change China’s conduct, and the degree to which they complement more established types of pressure, are fundamental questions now facing the international community. In the face of serious violations such as those that took place in 1998, they certainly cannot substitute for traditional measures such as a resolution at the UN Commission for Human Rights, which the United States should actively pursue in Geneva next month. The report unfortunately offers no comment on the substance or effect of these exchanges, which have been the object of much critical comment by

the non-governmental human rights community. Instead, it leaves the impression that the mere fact that these exchanges take place is sufficient. It is not.

B. Turkey

The report on Turkey is comprehensive and well informed. But it may be faulted for not giving sufficient attention to the failure — one might say the latest failure — of the Turkish government to carry out promised and necessary reforms in the human rights field.

When then-Prime Minister Mesut Yilmaz came to the United States in December 1997, he promised American leaders that 1998 would be a year of human rights in Turkey. He stressed that his government was committed to reforming the penal procedure law; to revising laws which penalize non-violent expression (under which human rights activists continue to be prosecuted and convicted); and to providing effective safeguards against torture.

Almost without exception these promises remain unfulfilled. While we may recognize that the Prime Minister was speaking only as the leader of a minority coalition government, it must be noted that successive Turkish governments have failed in their promises to implement far-reaching reforms in human rights conditions in Turkey. Torture, unfair trial and restriction on non-violent freedom of expression remain widespread problems, as the State Department report recognizes.

There is deep-seated resistance to human rights reform in powerful areas of the Turkish state power structures. The U.S. government must insist that the Turkish authorities continue to strive to make the progress to which they are committed in the human rights field. Such progress must be seen as a necessary condition to further development of the positive relationship between the U.S. and Turkish governments. The report notes that "there is a general recognition, including by the government, that the country's human rights performance is inadequate and needs to be brought in line." This is a peculiar and strained formulation given the extensive and accurate reporting on governmental human rights violations which makes up the body of the report. Regrettably, the Turkish government as a whole is not committed to human rights reform, despite honorable efforts in this regard by several government leaders.

The most compelling evidence of official ambivalence to human rights reform came in October 1998 with the issuing of Regulations on Apprehension, Police Custody and Interrogation. These regulations are a major setback for human rights in Turkey, removing safeguards designed to protect pre-trial detainees from torture which had been included in a circular issued by the Prime Minister in February. Significantly, this circular was never published in the *Official Gazette* and was therefore never fully enforced. The regulations, in contrast, which were signed by the Ministers of Justice and the Interior, were published immediately in the *Gazette*. According to reports in the Turkish press, they were the result of opposition to the measures in the February circular from the police and the security forces.

The regulations also reinforced abusive pre-trial detention procedures which proposed reforms in the Penal Procedure Code — placed before the parliament by the Yilmaz government

but never enacted into law — had been designed to remove. The October regulations specifically removed powers, conferred on prosecutors in the February circular, to visit detention centers at any time without giving prior notice to the police. They also withdrew prosecutors' powers to listen in on restricted police radio frequencies so that prosecutors would know when detentions had occurred. Currently abuses occur when members of the security forces exercise their wide-ranging powers to detain suspects without warrant, and sometimes without even informing prosecutors for several days.

The regulations removed any ambiguity over the denial of the right of access to counsel to detained suspects in state security prosecutions until after the detainee's appearance before a judge, which may take between four to seven days. This is a clear violation of international fair trial standards, and means that in practice that many state security suspects make incriminating statements under coercion which are then used as the major evidence for their conviction, without benefiting from access to counsel. As the report rightly notes, the right of access to counsel during the early part of detention is also an important safeguard against torture.

A similar pattern can be discerned in the government's record of prosecuting members of the security forces implicated in committing gross violations of human rights such as extra-judicial killing and torture. As the report rightly emphasizes, a climate of impunity for human rights abuse in the security forces is an enormous obstacle to improving Turkey's human rights record. In 1998, in the few cases where prosecutions and convictions of police officers had occurred, such convictions were reversed on appeal. In the Manisa case, which the report describes, a richly merited conviction for torture imposed by an appeal court was reversed by the trial court. The ten police officers who had initially been convicted of the brutal torture of a group of high-school students remain at liberty and on active duty more than two years after the torture occurred, with no indication that they will be called to account by the justice system in the near future. A further appeal to a higher court may take years.

The report asserts in its opening paragraph that "the government respects the Constitution's provisions for an independent judiciary." This bold assertion is not borne out by the facts. Most glaringly, the presence of a serving military officer as a member of the judicial panel in State Security Courts conflicts with the right to trial before an impartial, independent tribunal required in international law. State Security Courts try civilians accused of crimes against the state, including individuals accused of non-violent actions. Many prosecutions in such courts appear politically motivated, such as those brought against leaders from the political Islamic movement, the mayor of Istanbul, and non-violent political leaders associated with the Kurdish issue. Advocates such as Akin Birdal, chairman of the non-governmental Human Rights Association, have been brought to trial before State Security Courts as a result of statements or publications criticizing the government's human rights practices.

There is also undue executive influence over the appointment of civilian judges because of the dominant role played by the minister of justice in the Higher Judicial Council, which oversees judicial appointments. The periodic practice of the powerful National Security Council of issuing "instructions" to the judiciary about threats to the state is hardly consonant with the principle of judicial independence. Such instructions are followed by increased prosecutions

against those groups identified as "threats," even when such elements may be non-violent political activists associated with causes unpopular with the military establishment.

An immediate challenge to the credibility of U.S. human rights policy, and to Turkey's commitment to the rule of law and respect for human rights, is posed by the capture of rebel leader Abdullah Ocalan. Mr. Ocalan must be accorded a fair trial, which will require the removal of the military officer from the judicial panel in the State Security Court that is scheduled to try him. As a further guarantee of procedural fairness, his lawyers must be permitted to carry out their professional duties free of interference, harassment or intimidation.

C. Serbia-Montenegro

The country report on Serbia-Montenegro provides a generally accurate picture of the dismal human rights situation in that country and rightly concludes that the government's human rights record "worsened significantly" in 1998. For obvious reasons, a major part of the report details human rights abuses perpetrated by government forces against ethnic Albanians in the province of Kosovo. What the report fails to explain adequately is the broader political context of increased repression and the failure of the U.S. and the international community to anticipate a deterioration in the human rights situation.

It has been clear for years now that the government of President Slobodan Milosevic is a threat to the stability of the region. Rather than making human rights the focal point of any negotiations with him, the United States and other actors have set aside these concerns in the pursuit of immediate, politically expedient goals. A significant example is the U.S.-brokered negotiations on Kosovo of mid-October 1998. At a time of heightened human rights abuses both in Serbia proper and in Kosovo, neither the agreement nor public statements by U.S. officials at the time made any mention of the deteriorating human rights situation in Serbia. The 1998 country report similarly fails to recognize that democracy in Serbia is key to enabling any progress on a political resolution of the Kosovo crisis.

In a more positive development, the report mentions Serbia's failure to cooperate with the International Criminal Tribunal for the former Yugoslavia (ICTY). But it does not sufficiently explain the binding nature of Serbia's obligations to comply or the failure of the United States and other members of the international community to enforce them. It is well-known that a clause on Serbia's duty to cooperate with the ICTY was dropped from the October 13, 1998 agreement on Kosovo between Milosevic and Special Envoy Richard Holbrooke. The administration should have acknowledged this development and must ensure that Milosevic's obligation to cooperate is not bargained away in the ongoing diplomatic efforts to resolve the Kosovo crisis.

V. Conclusion

These comments represent an initial reaction to the *Country Reports* on the day of their release. The Lawyers Committee will look forward eagerly to a more substantive discussion of the *Reports* with Administration officials and interested members of Congress once we have had

the opportunity to carry out a more extensive review of their content. Nonetheless, even a brief examination of a few key countries makes apparent the general accuracy and professionalism of the *Country Reports*, their enormous contribution to our knowledge of human rights conditions around the world, yet at the same time the stubborn problem of partial or politicized reporting which continues to prevent the *Country Reports* from reaching their fullest potential.

Thank you.

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**The State Department Country Reports on Human Rights
 and the Clinton Administration's Human Rights Policy**

**Testimony of Reed Brody, Advocacy Director,
 Human Rights Watch**

**before the House Committee on International Relations
 Subcommittee on International Operations and Human Rights**

Friday, February 26, 1999

BRUSSELS HONG KONG LONDON LOS ANGELES MOSCOW NEW YORK RIO DE JANEIRO WASHINGTON

Thank you, Chairman Smith, for inviting Human Rights Watch to testify at today's hearing on the State Department's Country Reports on Human Rights. My name is Reed Brody, and I am the Advocacy Director of Human Rights Watch. I would like to request that the full text of my written statement - which I will summarize here - be made part of the record.

I would like to use this opportunity to stress the importance of linking these generally accurate assessments of human rights conditions around the world to U.S. policies on trade, aid, and military sales, in ways that will address the need to push for more vigorous protection of human rights the other 364 days of the year.

At the outset, though, I want to commend the State Department's Democracy, Labor and Human Rights Bureau and the women and men in U.S. embassies who have contributed to this important and impressive document. Under the leadership of Assistant Secretaries John Shattuck and Harold Koh, the Country Reports have come much closer to meeting the original intent of the Congress, by placing on the record, in a generally accurate and comprehensive manner, the practices of allied and adversary governments alike. The best chapters stand as extremely useful documents of human rights advocacy in themselves. The process of compiling and assessing the information, moreover, brings the responsible embassy personnel into close contact with those courageous persons who are on the front lines of different human rights struggles across the globe.

If the good news is the generally high quality of the Country Reports as a document of record, the bad news is that, for all too many countries, it is the *only* occasion on which human rights concerns are highlighted by the U.S. government. Mr. Chairman, the greatest threat to improved human rights protections in country after country across the globe is the growing sense of impunity with which governments respond to the demands of their citizens for human rights accountability and protection, and to outside critiques such as these annual reports. This impunity has many sources, but it certainly does not help when major powers, including the United States, repeatedly and consistently defer the promotion of human rights in the name of purported long-term strategies. What is packaged as "constructive engagement" is all too often a facade of human rights policy rather than a serious commitment to promote human rights, penalize abusive parties, and provide greater protections to the victims.

Turning to this year's report, Mr Chairman:

We applaud the breadth of the **introduction** and its focus on such issues as women, labor, press freedom, the rule of law and democracy. Democracy and human rights, while mutually reinforcing, are not synonymous, and we should be careful, as the report is, not to confuse elections with democracy or, for that matter, formal democracy with human rights.

In a year whose human rights highlights were undoubtedly the creation of the International Criminal Court and the arrest of General Augusto Pinochet, the issue of accountability for gross violations of human rights might have merited a section in the

introduction. Unfortunately, U.S. opposition to the new court and its silence on the arrest of General Pinochet would have made such a discourse awkward, as would the U.S.'s continued refusal to hand back uncensored to Haiti the tens of thousands of documents seized by U.S. troops from Haitian paramilitary and military headquarters and sought by Haitian prosecutors, or the U.S.'s refusal to prosecute or extradite Haitian death squad leader, Emmanuel Constant who lives free in New York.

We are frankly troubled by a creeping selectivity in the introduction, particularly in the Middle East in which only Iraq, Syria, Libya and Iran are mentioned as repressing democratic dissent. Yet Saudi and Bahrain and Tunisia, to name just three allies, also "used [their] vast security apparatus to quash effectively all organized political opposition or dissent" (as was said about Syria), and Egypt no less than Libya "employed summary judicial proceedings to suppress human rights." Subsequent discussion of problems of Christians in Egypt, where the main offenders are non-government actors, does nothing to redress the introduction's selectivity.

In the Introduction's "Developments Toward Democracy" section, Libya, Iraq, Syria joined by Saudi Arabia as countries that "tightly proscribe civil society." The narrative goes on to discuss Egypt's "restrictions" on NGOs, but rather than expressing the Department's own opinion, it merely says that "many local and international human rights activists have concluded that government restrictions....have inhibited reporting on human rights abuses."

Similarly, the report lists Belarus, Burma, Cuba, Iraq, Libya, North Korea, Sudan, and Syria, as countries in which the rule of law has been warped to fit the whims of a tiny ruling elite. In the Middle East alone, the section could have just as easily listed Bahrain, Saudi Arabia and the other family-ruled emirates - all allies of the US.

I would like now to look at some of the country chapters we have had a chance to read:

Turkey - The Clinton administration has on several occasions during the past year spoken out about the need to curb the serious human rights violations perpetrated in Turkey. In the same vein, this year's chapter is generally accurate, describing the persistent problems of torture, restrictions on freedom of expression, and repression of Turkey's minorities. Our concern is that beyond this frank rhetoric, Turkey, as an important U.S. strategic ally, suffers only limited repercussions for its abusive practices.

The U.S. government's willingness to back up its critical words is about to face an important test: last week the Turkish military announced five finalists competing for a \$3.5 billion contract to supply it with 145 attack helicopters. Two U.S. manufacturers are in the running. In December 1997, in exchange for marketing licenses permitting the U.S. manufacturers to participate in the bidding process, the Turkish government committed to carry out important reforms and the administration vowed that a final sale would not be approved unless Turkey delivered on its promises. Among other things, the Turkish government promised significant progress toward improving police accountability and ending the practice of torture, repeal of legislation restricting

free expression, release of journalists and parliamentarians from prison, reopening of non-governmental organizations closed by authorities, democratization, resettlement of displaced persons, and a meaningful end to the state of emergency in the southeast. A year later, there has been limited or no progress on the promised reforms and a worsening of some of these conditions.

In just the past two weeks, Turkey's highly publicized capture of the leader of the Workers Party of Kurdistan (PKK), Abdullah Ocalan, has highlighted its persistent disregard for basic human rights. Although we believe Ocalan responsible for crimes against humanity committed by the PKK under his leadership, we are convinced that the cause of international justice, not to mention peace in southeastern Turkey, can only be served by a trial that comports with international standards. Unfortunately, for 10 days—until yesterday—Ocalan was detained and interrogated without access to a lawyer; moreover, international organizations, including Human Rights Watch, seeking permission to observe the trial have been categorically rebuffed by the Turkish authorities.

While as the country report reveals, the administration certainly recognizes these problems, we fear that it remains reluctant to use its substantial leverage to exact meaningful change in Turkey. In the past, it has often been Congress that has been most effective in making human rights a piece of U.S. policy towards Turkey, with its specific amendments to Economic Support Funds appropriations and with the Congressionally mandate July report from the departments of State and Defense on the use of U.S. weapons in the conflict with the PKK. We urge you once again to take the lead in pressing the administration to insist on meaningful reform in Turkey—starting with a fair trial for Ocalan—and to bar the transfer of U.S. manufactured attack helicopters to Turkey until that reform is realized.

Turkmenistan- The discrepancy between these reports and US foreign policy is nowhere more evident than in the oil-rich nations of the Caspian sea region. While the reports represent a generally accurate description of the corrupt and abusive regimes in that region, these assessments seem to bear no relation to the ever increasing levels of U.S. assistance and financing pumped in there to promote U.S. commercial and strategic interests. No case is more striking than that of Turkmenistan. Assistant Secretary Koh's introduction to the country reports misleadingly refers to "modest progress" in Turkmenistan, citing the release of political prisoners as evidence. While these releases are welcome, they should not be allowed to obscure the fact that—as a more careful reading of the turkmenistan chapter illustrates—turkmenistan remains certainly the most repressive country in the former Soviet Union, with no independent press, no independent political parties, no independent trade unions or public associations, no public dissent, and no political life beyond the ever-present cult of personality of President Saparmurat Niyazov, whose political opponents face harassment, beatings, and Soviet-style incarceration in psychiatric hospitals. The repressive laws, policies, and practices that land political prisoners behind bars in Turkmenistan remain fully in force.

Yet the Clinton administration has courted the government of that country to advance security interests in the region, in particular its favored pipeline route across the Caspian Sea, Azerbaijan, Georgia, and Turkey. President Clinton unconditionally welcomed Niyazov in Washington last spring, supports the Turkmen regime with a generous aid package, and is currently

considering US financing for the \$2 billion trans-Caspian pipeline, even though there is little hope that in such an environment this support will promote economic development, democratization, or anything other than the empowerment of a corrupt and abusive leadership.

Peru - The reports correctly note that in Peru, "the judicial system continued to be inefficient, often corrupt, and easily manipulated by the executive branch. President Alberto Fujimori used provisional and temporary appointments to create a corps of judges largely beholden to him for the ongoing occupation of their offices." Given the Department's accurate portrayal of executive interference in the judiciary in Peru, we are seriously concerned about the message that will be sent by Attorney General Janet Reno's presence in Lima next week at a justice ministers' summit. Unless the Attorney General uses the meeting to forcefully advocate the restoration of judicial independence, her presence at the meeting will provide President Fujimori with undeserved support for his campaign against the judiciary.

Congo - The chapter on the Democratic Republic of Congo accurately portrays the marked deterioration of the human rights situation in areas which remained under the control of President Kabila's government after the start of the rebellion in August. However, the chapter is far less informative on the dismal human rights record of the rebel Congolese Rally for Democracy (RCD) which is fighting to topple the government. For example, violations by the rebels and Rwandan, Ugandan, and Burundian forces backing them of international law during their campaign to take the capital in August, and in areas under their control in eastern Congo, get only a passing mention. The chapter fails to highlight a pattern of arbitrary arrest, illegal detention -- often in unacknowledged detention centers -- and "disappearances" of which the political opponents of the rebellion are the victims. It appears to exonerate the rebels of targeting their perceived ethnic enemies as the government has done. This lack of balance could only reinforce the perception, which is widespread in the central Africa region, that U.S. policy is skewed in favor of the rebel alliance and its Rwandan and Ugandan backers. The chapter addresses only in the broadest terms the responsibility of foreign states involved on both sides of the Congo war in the violations of international law taking place in that conflict. This lack of specifics would also limit the U.S.'s influence and leverage in pressing for full accountability of all parties involved in the conflict.

Rwanda - The report repeatedly declares the seriousness of the situation in Rwanda, but stops far short of revealing the full extent of abuses committed. This is particularly true in discussing military attacks on civilians in the northwest. The report states twice that the numbers of civilians killed cannot be estimated and talks of "hundreds." Yet in the numbers it cites for just three incidents, the death toll exceeds 600 and it is clear that such incidents took place very frequently during the year, leading to the conclusion that the numbers killed must be far above hundreds. Indeed one staff member at the NSC talked earlier this year of some 50,000 killed and diplomats in Kigali talk regularly of 200,000 or more who are unaccounted for--many of them dead. Some of the victims have been killed by insurgents, but clearly the government, with its overwhelming firepower, has

been responsible for killing more. As the report indicates armored vehicles have fired on unarmed civilians, as apparently have helicopter gunships.

Similarly the description of the concentration of the population in camps fails to reveal the extent of force used in some cases where civilians have been ordered to leave their homes or face treatment as insurgents in military sweeps. In this sense, talking of people who had been with insurgents returning "home" is misleading. They are back in government-controlled areas, but prevented from returning to their own homes. As the report indicates, in some areas, people have been forced to destroy the banana and beafields which are their primary source of sustenance, making them now dependent on food deliveries from the outside.

It is apparently true that government attacks on civilians have declined in the second part of the year and that there have been renewed political efforts at winning local support, but the report fails to indicate fully just how high was the level of military violence early in the year.

The report is straightforward in admitting the deplorable situation in the judicial system and prisons and in admitting that the number of "disappearances" has increased. It declares but does not make negative comment on the Rwandan government failure to investigate fully the killings at Kanama caves in late 1997, an incident which probably took thousands of lives. Its noncritical attitude is all the more unfortunate given that Sheffer visited those caves and at the time expressed his conviction that the incident should be and would be fully investigated.

China - Overall, the report is hard-hitting and accurate in portraying widespread and systematic abuse, with the section on religion particularly good. The discussion of abuses associated with the practice reeducation through labor is thoughtful and detailed, as is the reporting on efforts to block Internet communications. The description of instances of coercion in meeting family planning targets accords with other information we have received, although HRW has done no research of its own on this issue.

The effort to give the Chinese government credit for improvement is sometimes disingenuous, however. For example, the fact that the government allowed EU ambassadors to visit Drapchi prison in Lhasa, Tibet, is hardly evidence of greater transparency when the visit was a show tour. The report also makes no mention of reports of deaths of prisoners that occurred after the EU visit: it simply says, "There were unconfirmed reports that prisoners who attempted to communicate with observers subsequently were punished or beaten." The fact that China hosted an international human rights conference in Beijing in October obscures the fact that the government used the conference to reiterate the "Asian values" argument that nearly all other governments in the region have abandoned (interpretation of international standards depends on level of economic development and nature of political system).

Indonesia - The Indonesia report is superb: comprehensive, nuanced, and more detailed than ever before. It is particularly good on human rights abuses related to political protests in Jakarta. It shows, for example, that even in cases where soldiers have been prosecuted, they have either been charged with procedural offenses rather than crimes, or they have been scapegoats for more senior officers. It also spares no punches in addressing the involvement of Soeharto son-in-law Prabowo in many abuses. The much more sophisticated treatment of Irian Jaya than in past years reflects closer monitoring by the embassy. There are good discussion on indigenous rights and the problems of the transmigration program, and on violence against women. One weakness, that does not, however, detract from the overall quality of the report, is the failure to adequately address the Indonesian government's role in the abuse of Indonesian migrant workers sent overseas.

Angola - The Angola chapter for 1998 is superior in quality than last year. Human Rights Watch found the 1997 chapter so weak and full of errors that we wrote to Ambassador Steinberg complaining about it. This chapter adequately underlines the human rights crisis in Angola in 1998. I must add that the situation in 1999 is already worse. For example, the DOS report states that there was no harassment of foreign journalists in Angola. That was true for 1998 but in January 1999 the Angolan government has harassed Portuguese and foreign journalists and the local independent media have been threatened with closure unless it curtails any negative comments they make about the government's war effort. UNITA rebels are also continuing to commit gross human rights violations, indiscriminate shelling of cities like Malange and extrajudicial killings of prisoners, such as in Mbanza Congo.

Today, the final departure date for the UN in Angola will be agreed upon in New York. Human Rights Watch believes that there needs to be a significant continued rights monitoring effort operation in Angola by both the UN and NGOs. The UN's human rights division has greatly improved its efforts on rights protection in 1998 and has been a contributing factor to the much stronger DOS section on Angola this year. We believe the work of the division must be maintained even after the UN withdrawal.

Mexico - As it has in the recent past, this year's Mexico chapter aptly notes the main human rights problems suffered in Mexico: torture, arbitrary detention, "disappearances," extrajudicial execution, impunity and many, many others. Human Rights Watch's own appraisal of human rights conditions in Mexico does not vary substantially from the State Department's. Nonetheless, we must raise two fundamental issues that merit additional attention. First, the thrust of the chapter's strong findings is minimized by the few overall comments made regarding the government's attitude toward human rights. That is, the report notes that the government "generally" respected the rights of its citizens, and relates that reform efforts were underway to handle problems in the judiciary. Let's be clear: the government of Mexico has failed to design a human rights strategy to deal with the problems that Human Rights Watch and the State Department agree are of the utmost concern in Mexico. By failing to adequately address human rights problems in Mexico, the government fails in its international obligations to protect human rights. The government's approach to human rights must be considered a policy acquiescence for such abuses to take place.

Our second observation relates to the ways in which the State Department uses the report to formulate policy toward Mexico. Human Rights Watch recognizes and fully supports the State Department initiative, spearheaded by the human rights bureau, to hold bilateral talks with Mexico on human rights issues. However, we see little if any reflection of human rights concerns in the implementation of U.S. policy toward Mexico. Improvements in human rights conditions in Mexico should be one of several goals to overall U.S. policy toward Mexico, just as Mexico should insist on human rights improvements in the United States in bilateral talks.

Middle East - The chapters on Middle East countries highlight the pressing need for policies, including public diplomacy, that seek to curtail gross and persistent human rights abuses by governments there, including many that are allies of the U.S. As part of this initiative, Assistant Secretary of State Koh should schedule a trip to the region before the end of 1999. We also make the following country-specific recommendations:

- **Algeria:** The military-backed government has refused to allow any independent credible investigation into the ongoing violence that has killed tens of thousands of people, mostly innocent civilians. The U.S., together with like-minded governments, should table a resolution at the upcoming annual meeting of the U.N. Commission on Human Rights appointing a special rapporteur on Algeria. The U.S. should also press Algeria for information concerning thousands of cases of unresolved "disappearances," and indicate that improved relations with the U.S. require greater transparency on the country's human rights crisis.
- **Tunisia:** The chapter on Tunisia reflects the heavy repression directed against peaceful critics of the government, including human rights activists. The administration should use every available opportunity to register at the highest level strong U.S. criticism of this official and thoroughgoing intolerance of dissent.
- **Israel/Palestinian Authority:** The Central Intelligence Agency represents the U.S. government on committees overseeing the Wye River Memorandum's security arrangements. Both Israel and the Palestinian Authority systematically violate basic rights, including torture and arbitrary detention, in pursuing security concerns. U.S. representatives should not be limited to CIA personnel, should be trained in monitoring human rights violations, and should report violations to the Secretary of State, who should criticize such abuses forthrightly and as a matter of urgency.
- **Bahrain:** The U.S. has stood by silently for another year while the authorities continue to engage in serious abuses, including torture, arbitrary detention, grossly unfair trials in the State Security Court, and wholesale restrictions on freedom of association and freedom of expression. The recently initiated State Security Court trial of Shaikh Abd al-Amir al-Jamri, Bahrain's most prominent political prisoner, is an opportunity for the U.S. to make clear that its concern for human rights and democracy extends to the Persian Gulf.

- **Egypt:** Recent steps by the Egyptian authorities to intimidate the country's human rights community after the Egyptian Organization for Human Rights released a report about an egregious incident of mass arrest and widespread torture shows the need for the U.S. to raise the profile of human rights issues in its dealings with the government. The extent of official impunity in Egypt for acts of torture and "disappearances" is unacceptable for a country that is a key political and military ally of the U.S. in the region.

Women

This year's report points out that in "1998, domestic violence and sexual harassment remained endemic." However, the report almost always stops short of identifying government obstacles to women reporting sexual and domestic violence and treats these phenomena as mysterious in their origin and persistence. The reports rarely mention the fact that in many countries domestic violence and rape prohibitions are poorly constructed and enforced; judicial systems, at the level of the police, prosecutors, and judges are biased; forensic doctors are poorly trained; and as a result, the likelihood of rigorous investigation and prosecution of domestic violence or sexual violence is low.

Indeed, U.S. foreign policy with regard to domestic and sexual violence against women lacks any consistency. For example, in FY '99, Congress mandated that the U.S. government allocate \$1.5 million for law enforcement training programs on violence against women in Russia, but the U.S. has not systematically tackled the obvious issues of police and judicial bias; the need for legislative reform and better enforcement of laws; and the failure of governments generally to respond adequately to reports of sexual and domestic violence.

Human Rights Watch commends the Department on the inclusion of trafficking in the DOS country reports. It is particularly positive to see attention focused on the role of governments and official corruption in perpetuating the trafficking. However, the reports themselves are spotty, relying on out-of-date data and glossing over the records of several countries with extensive trafficking problems.

Women's equal access to the labor force has only barely been taken up by the country reports or by the U.S. government. In the past, the country report for Mexico has noted the prevalence of pregnancy testing in its public and private sectors. The administration has failed to take up the point in its bi-lateral meetings with Mexico, however. We are unaware, for instance, that this issue was raised during President Clinton's recent meetings in Merida.

The country reports note that in many countries women are unequal before the law. If there were one area in which country reporting rarely translated into a U.S. foreign policy concern this would be it. Women in Algeria, Morocco, Iran, Kuwait, Guatemala, Iraq, and Saudi Arabia, among many other countries, live under the rule of personal status and family laws that keep women minors forever; condition their rights on male authority, supremacy, and protection; and make women more

vulnerable to violence and less likely to be able to extricate themselves from violent relationships and seek redress.

For example, in Algeria, where women's battle to reform the discriminatory family code continued despite the escalating conflict, the U.S. acknowledged the reform efforts but did not press for reform nor offer direct support to women fighting for equality. Similarly, in Morocco, the U.S. virtually ignored women's rights in its dealings with the government. The U.S. did support small-scale programs aimed at improving women's literacy, health services, and economic participation, but none of these addressed women's fundamental inequality under the law.

Recommendations

Human Rights Watch makes the following recommendations to the Clinton administration regarding the State Department Country Reports, and we welcome Congressional support for these recommendations in the form of supporting resolutions, critical hearings, and appropriate legislation.

- The U.S. should take the lead in preparing and advocating a strong, critical resolution regarding the human rights situations in China at next month's meeting of the U.N. Human Rights Commission in Geneva, and a similar resolution establishing a Special Rapporteur concerning the human rights situation in Algeria.
- There is no better opportunity to use the material in the Country Reports than at annual meetings where donor countries develop aid plans for particular recipient countries. The U.S. should be sure that the agendas of such meetings include a public evaluation of a recipient government's human rights record, with special attention to political imprisonment, judicial independence, protection of free speech and free association, and cooperation with local and international human rights organizations, particularly because abusive governments are poor prospects for economic development.
- In countries where the U.S. has a diplomatic mission, the ambassador or the acting chief of mission should be designated to present the chapter of her or his country to the appropriate high officials—namely, the minister of foreign affairs, minister of interior, or head of state. The material in the Country Reports, updated as appropriate, should be used frequently throughout the year in high level meetings. Offending governments, particularly allies, will pay more attention to these human rights findings and concerns if they are discussed at trade talks, security gatherings, and summits, and not only relegated to compartmentalized human rights dialogue sessions.
- The material in the country reports should be linked closely to the approval of all weapons transfers, whether or not these involve aid or credits or are strictly commercial sales. Governments guilty of persistent gross abuses should not be eligible for such transfers, in accordance with existing law.
- The administration should seriously consider adding a section to each chapter specifying what steps the U.S. government has taken over the period covered to address the abuses cited.

In closing, let me make one additional point. The increasingly high quality of the State Department

Country Reports highlights the absence of anything comparable about U.S. human rights practices. Last year, Human Rights Watch and twelve other U.S.-based international human rights and domestic civil rights organizations wrote to President Clinton urging the administration to authorize the appropriate departments to compile and publish annually, a report on the human rights situation in the United States. Such a step would build on last December's Executive Order on U.S. treaty compliance as a demonstration of our government's commitment to the universality of international human rights norms. It would enable U.S. citizens and residents to gauge the government's compliance with the international human rights treaties it has ratified. An honest appraisal of how rights are protected in this country could assist policy makers in identifying trends in violations, provide the public with an accounting of efforts to correct violations, and generally provide the same scrutiny to the U.S. that it applies to other countries. We would welcome the support of this committee and other members of Congress for this proposal.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Belarus Question: On February 25, police in Minsk arrested 14 members of the Belarusian opposition's central elections commission, which has been organizing presidential elections scheduled for May 16. These elections were called last month by members of the Belarusian Parliament - which we recognize as the legitimate parliament - disbanded by authoritarian President Lukashenka after the illegitimate 1996 referendum. There are concerns that we may see more crackdowns of the opposition. What is our policy with respect to the elections being organized by the opposition? Do we intend to support them? Have we indicated to the Belarusian Government our support for these elections?

Answer:

Belarus' legitimate and internationally recognized 13th Supreme Soviet, the legislature that President Lukashenko deposed after the illegitimate 1996 referendum, has called for a presidential election on May 16. This initiative to hold a presidential election reflects the continuing effort by democratic forces to engage the public on behalf of constitutional issues, despite Lukashenko's threats to prevent an election from occurring. The election effort, which could fail due to voter fear of retribution, or Belarus government intervention, dramatizes the constitutional and political impasse that Lukashenko's unilateral changes in the constitution and the organs of government created, and has made clear the need to re-establish a political consensus in Belarus.

The expiration of President Lukashenko's mandate on July 20 under the 1994 constitution will formalize a process that began several years ago. His departure from the country's agreed constitutional framework and his steady encroachment on the rights of the Belarusian people have already eroded his democratic legitimacy; the ending of his legal term of office obviously diminishes it further. We have stressed to the Belarusian government that it needs to initiate a dialogue with the opposition and with the society as a whole toward establishing a framework for free and fair elections in which all parties can participate on an equal basis and observe internationally - recognized human rights, in accordance with its OSCE commitments. We have made clear that such actions are necessary in order for Belarus to have a more normal relationship with the United States and with the broader Euro-Atlantic community.

Question for the Record

**Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999**

Cambodia Question: The report concludes that "despite the incidents of political violence, intimidation, and election irregularities, the formation of the new Government reflected the will of the electorate." How is this conclusion consistent with the facts documented in the report - that there were numerous political killings during the election campaign, including some that were clearly sponsored by the government, and that the government dominated radio broadcasts during the election campaign, shutting out almost all opposition viewpoints - especially in light of the fact that Hun Sen's party still got fewer votes than the combined votes of the anti-Communist opposition parties?

Answer:

The United States was deeply concerned about the atmosphere of intimidation and the lack of fairness in campaigning leading up to the 1998 elections (for example, the opposition's lack of access to electronic media). Nevertheless, most observers agree that the voting on election day itself was generally technically accurate. Although there were numerous allegations of fraud, which to our great disappointment the National Election Commission failed to consider, the total number of votes contested would not have changed the relative strength of the three parties in the assembly. Cambodia's proportional representation scheme, similar to that of many European countries, gave the CPP a plurality of seats in the assembly slightly greater than its share of the popular vote. After

lengthy and tough negotiations following the election, a government was formed which includes members of the two parties which received the greatest number of votes in the election. In this sense, the Cambodian government does reflect the will of the electorate.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Central Asia Question: There have been reports that the Government of Kazakhstan is considering a new law on religion modeled after the Russian religion law. What action is the Administration taking to dissuade the Government of Kazakhstan from passing amendments to their 1992 law on religion?

Answer:

Earlier this year, the Government of Kazakstan was considering draft amendments to its law on religion that likely would have had the effect of restricting religious freedom. The government deserves great credit for circulating publicly a draft of the proposed bill, which provided the public with an opportunity to comment on it. Such a gesture was an important step in complying with the goals of transparency and rule of law. We are pleased to report that the draft amendments to the law have been withdrawn and that we are aware of no other draft that is now under consideration. We would be pleased to brief you personally on the actions the U.S. government took to promote religious tolerance. The issue is of high concern to the Administration and it will continue to be followed closely.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

China Question: The opening paragraph of this year's report continues last year's statement that the Communist Party's authority rests in part on "improvement in living standards of most of China's 1.2 billion citizens." Even if true, this seems irrelevant to whether the regime violates human rights. Why did you include that introductory remark?

Answer:

The first paragraph of each of the 194 individual country reports is intended to provide a brief overview of the country's political and governmental structure, to indicate who actually rules and how, and to identify the various sources of the government's authority.

In the case of China, the report notes that socialism continues to provide the theoretical underpinning of Chinese politics, but Marxist ideology has given way to economic pragmatism in recent years. The report goes on to state that "the Party's authority rests primarily on the Government's ability to maintain social stability, appeals to nationalism and patriotism, party control of personnel and the security apparatus, and the continued improvement in the living standards of most of China's 1.2 billion citizens."

Question for the Record

**Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999**

China Question: The report describes the continuing repression of so-called "unofficial" Catholics throughout China, and notes the ongoing dispute about whether Bishop Su of Baoding has been detained by the government. What is the opinion of the U.S. government on the Bishop's whereabouts? What inquiries have you made about this situation?

Answer:

According to reports from his followers, Bishop Su Zhimin was arrested in October 1997. Despite repeated and high-level attempts we have been unable to confirm his arrest and/or imprisonment.

His case has been raised in numerous high-level meetings as well as in our official bilateral human rights dialogue with China that resumed in January 1999. Ambassador-at-Large Robert Seiple also raised his case during his January trip to China.

Chinese authorities consistently maintain that he is not being detained and his followers continue to assert that that he has disappeared.

Embassy Beijing has urged the Chinese to arrange a meeting between one of our officers and Bishop Su in order to obtain independent verification of Chinese claims. We will continue to do so.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

China Question: In his testimony before the Subcommittee in 1996, then-Assistant Secretary of State Shattuck explained that the U.S. "Vote[s] against international loans, except for basic human needs, to China. Is this still U.S. policy? What steps does the U.S. take to ensure that our human rights concerns are not undercut by our participation in multilateral lending institutions?"

Answer:

Since the Tiananmen crackdown, the United States has not supported development bank lending to China except for projects designed to help meet basic human needs. Loans we would support include those for purposes of poverty alleviation, e.g., agricultural, rural health, educational, and rural water supply programs in some of the poorest areas of the country.

The U.S. ensures that our human rights concerns are expressed by only supporting such basic human needs loans to China.

Question for the Record

**Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999**

Question: This year's report contains very little discussion of the treatment of escapees returned to Cuba by the U.S. under the 1995 Clinton-Castro agreement. How many people did the U.S. return to Cuba during 1998 under the 1995 Clinton-Castro agreement? How many of the total number of returnees since 1995 are now in prison? How do you go about monitoring Cuba's treatment of the returnees? (e.g., how many monitors do we have? How many visits do they make to each returnee during the year? Are those interviews conducted in circumstances where the returnees would be comfortable speaking with our representatives?) How do we confirm that the imprisonment of returnees is genuinely "unrelated to their attempts to leave Cuba" and that the Cuban government is honoring its commitment not to retaliate against returned escapees?

Answer:

As the Department of State reported to Congress pursuant to Section 2245 of the Omnibus Consolidated and Emergency Appropriations Act (P.L. 105-277), in calendar year 1998, almost 600 individuals were returned to Cuba pursuant to the May 2, 1995 U.S.-Cuba Migration Agreement. This includes those who were interdicted at sea by the U.S. Coast Guard, as well as those who illegally entered the Guantanamo Bay Naval Base.

All returned migrants are informed by U.S. Interests Section officers immediately upon their return to Cuba of the Cuban government's commitment not to take action against them for their attempt to migrate illegally. They

are also provided with a packet containing detailed information about legal migration opportunities. They are given an open pass enabling them to visit U.S. Interests Section in Havana at any time.

Our Interests Section actively monitors the treatment of returned migrants. Officers from the Consular Section of the U.S. Interests Section periodically visit returned migrants. Interests Section monitors have made over 2,000 visits to the homes of returned migrants throughout Cuba since the Joint Statement became effective. Additionally, returned migrants have made over 500 visits to the U.S. Interests Section.

Each returnee, with the exception of those who live in Havana province, is visited at least twice a year during the first year following repatriation and once during the second year. All returnees are free to visit or call the U.S. Interests Section at any time to report incidents of harassment. Those who live in Havana province are not visited in their homes, but are free to visit the U.S. Interests Section as necessary.

Most returnees appear comfortable discussing their situations with the monitors, whether at home or at the Interests Section.

The vast majority of returnees have not suffered reprisals attributable to their exit attempt. There have been a few instances in which local officials have terminated individuals' employment or school attendance in apparent retaliation for their departure. Most of those who affected who have sought alternate employment or schooling have received jobs or admission to other schools within a reasonable time following their return. Generally, those who were formally employed prior to their illegal exit attempt have been able to return to their jobs. At any given time, unresolved allegations of harassment generally number less than 12.

The U.S. Interests Section is aware of some returned migrants currently in jail in Cuba. Interests Section monitors have concluded that none of these appears to have been jailed as a direct result of his illegal exit attempts. Some returnees were imprisoned because they hijacked boats using the threat of lethal force, and some because of earlier or subsequent criminal acts unrelated to migration offenses. In cases where returned migrants are in jail, monitors rely primarily on interviews with the relatives of the imprisoned returnees to determine whether their incarceration is related to the "illegal" exit that

led to their interdiction at sea or their repatriation after entry into the Guantanamo Bay Naval Base.

In one case, however, the monitors were unable to determine the precise reason for the returnee's imprisonment. The U.S. Interests Section is addressing the case with the Cuban Government through discussions with the Cuban Foreign Ministry.

As a result of information gathered through this extensive monitoring program over nearly four years, we believe that the Cuban government to date has complied with its commitment not to take reprisals against returned migrants.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Europe Question: I am concerned by the implementation of restrictive laws on religion in Austria, Russia, Uzbekistan, and Macedonia, and proposed laws in Romania and Kazakhstan. Do you see a trend throughout Europe and Central Asia of attempting to control religious communities or limiting practice by so-called "minority faiths"? Why do parliaments and governments believe it is necessary to construct such restrictive laws that institute a tiered system of preferences even though the laws are in clear violation of the Helsinki commitments?

Answer:

Within the past few years, some European and Newly Independent States have adopted new laws on religion, including Austria, Belgium, France, Macedonia, Russia, and Uzbekistan. There also is a draft law under consideration in Romania.

The reasons for the enactment of the laws and their consequences differ among the countries. In Austria, for example, the January 1998 law allows religious groups other than the twelve officially recognized groups to seek official status as confessional communities, but without the fiscal and educational privileges available to the recognized religions. However, the law imposes several new requirements on religions seeking to obtain the privileged public law corporation status. Governments typically argue that certain "traditional" religions with "historical" roots in their countries should be entitled to

benefits that should not be granted to new or unfamiliar religions.

We share your assessment and concern that the multi-tiered systems for categorizing religious associations--which typically give preferred status to so-called "traditional" religions--are inconsistent with OSCE commitments as well as other international obligations not to discriminate on the basis of religion. Unfortunately, governments of European countries frequently do not interpret the international human rights instruments as prohibiting such multi-tiered systems. We are involved in ongoing discussions with European countries (and others) to address this issue. We will continue to press this issue vigorously.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Russia Question: At the moment, many regions of Russia are employing the 1997 Russian religion law to harass religious minorities. As we speak today, the Jehovah's Witnesses in Moscow are on trial for allegedly "sowing religious discord." If found guilty, Jehovah's Witnesses might be legally barred from practicing their faith throughout Russia. What has been the Administration's response to attempts in Russia to hinder religious worship?

Answer:

The issue is a top priority on the U.S.-Russia bilateral agenda. The President, Vice President, Secretary of State, the Ambassador at Large for International Religious Freedom, and other high-level Administration officials personally have raised concerns with Russian officials regarding religious freedom. When the Secretary of State traveled to Moscow in January, she met with leaders of religious groups and human rights non-governmental organizations. In her only public remarks during that trip, she called for Moscow to adhere to international standards of religious freedom, and specifically mentioned Moscow's Jehovah's Witnesses. The Embassy in Moscow has been in close and continuous contact with Russian officials regarding religious freedom generally and specifically in the context of the Jehovah's Witnesses trial in Moscow. Embassy officials monitored the trial on a daily basis and were in ongoing

discussions with Russian officials and members of the Jehovah's Witnesses. Ambassador Seiple visited Moscow in April and met with political and religious figures. He stressed the importance of Russian Federal authorities doing more at the local level to keep Russia in compliance with its international religious freedom obligations, and highlighted the importance of the Jehovah's Witnesses case. Senior officials in President Yeltsin's administration told Ambassador Seiple that the central authorities would approve the registration of Jehovah's Witnesses in Russia. The Embassy continues to follow this issue very closely.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Russia Question: The example of the Russian law seems to have prompted some of her neighbors to follow suit with repressive religious legislation. We have seen Uzbekistan pass a law in 1998 that is one of the most repressive laws in the OSCE region for religious groups. Kazakhstan is reportedly considering a new law which is modeled after the Russian law. What action is the administration taking to press other governments in the region to insure that legislation conforms with international, particularly OSCE, commitments on religious liberty?

Answer:

The Country Reports on Human Rights Practices for 1998

describes the new religion law in Uzbekistan that further restricts the practice of religion. We are very concerned about the repressive religious legislation in Central Asia, especially in Uzbekistan. The laws in Uzbekistan have the potential for seriously restricting the practice of religion by imposing stringent registration requirements and limiting worship. We have urged the government of Uzbekistan to repeal their restrictive religious laws or to implement them in a manner consistent with international religious freedom obligations. We are pleased to report that the draft amendments to the Kazakstan law on religion have been withdrawn. (Please see the answer to the Central Asia question.) With respect to other governments in the region, the new Office of International Religious Freedom

(IRF) at the Department of State has undertaken several steps to promote international standards in the region. First, Ambassador-at-Large for Religious Freedom, Robert A. Seiple, recently traveled to Moscow to raise this issue with high-level governmental and religious leaders. Second, Ambassador Seiple traveled to the OSCE supplemental meeting on religion in Vienna, Austria, and delivered the intervention of the United States on religious freedom. Third, Ambassador Seiple is now scheduled to travel to Central Asia in May 1999 to press the U.S. position on the issue. Fourth, IRF is working to develop a thorough analysis of international standards on religious freedom -- including OSCE standards -- which will provide the basis for future discussions with governments on international standards. Finally, U.S. Embassies promote religious freedom in their host countries and regularly report on these issues. Embassies currently are gathering additional information for the first annual report to Congress on international religious freedom.

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
Subcommittee on International Operations and Human Rights
February 26, 1999

Vietnam Question: In April 1997 the Vietnamese government issued decree 21/CP authorizing administrative detention of political suspects for up to 2 years without charge or trial. Do you have any estimate of how many Vietnamese citizens are being detained under that decree? How will our Embassy and consular offices go about getting such an estimate?

Answer:

As the 1998 Country Report on Human Rights Practices for Vietnam notes:

"the Government continued to arrest and detain citizens arbitrarily, including arrest and detention for the peaceful expression of political and religious views. . . . [A] 1997 directive on administrative detention gives security officials broad powers to monitor citizens closely and control where they live and work for up to 2 years if they are believed to be threatening "national security."

Determining the total number of people who have been affected by the Administrative Detention Decree would be difficult because the decree gives the local authorities the authority to place individuals under administrative

detention which requires them to live and work in a designated locality where they are subject to frequent checks by the authorities. The Decree covers persons who break the law or violate national security as defined by the Criminal code, but whose offenses are not yet at the level that warrants "criminal responsibilities."

Question for the Record
Submitted to Assistant Secretary Harold Hongju Koh
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February 26, 1999

Vietnam Question: The report also repeats the conclusion of UNHCR monitors that none of the returnees under the "Comprehensive Plan of Action" was persecuted upon return. In reaching this conclusion, UNHCR monitors had to decide what to do about thousands of returnees who were subjected to extensive interrogation by security police about their anti-Communist activities before and after leaving Vietnam, who were threatened with severe retribution if they engaged in similar activities after their return, and who were denied the "household registration" which is necessary to receive basic necessities of life. Some of these people were imprisoned on return, allegedly for crimes they committed before they left, and at least one was executed. In every single case the monitors decided either that such ill-treatment did not constitute "persecution" or that it was inflicted for some non-political reason. Do you have confidence in these conclusions? If not, why are they included in the report?

Answer:

One returnee was executed for a crime committed before he fled Vietnam. We discussed the case with the Government of Vietnam, expressing our deep concern that we were not notified until after the execution took place.

The UNHCR monitors evaluate treatment of returnees in the context of Vietnam's overall human rights situation. UN monitors have sought out a substantial fraction of the returnees and also meet with returnees who seek them out. The State Department's Country Reports on Human Rights Practices use various sources of information. Besides

official sources, the reports also include credible information from other sources, which we do our best to verify independently.

WILLIAM D. DELAHUNT
TENTH DISTRICT, MASSACHUSETTS

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March 5, 1999

The Honorable Christopher H. Smith
Chairman
Subcommittee on International Operations and Human Rights
House International Relations Committee
2370 Rayburn
Washington, D.C. 20515

Dear Chairman Smith: *Chris*

I am writing to follow up on our discussion of Guatemala during the February 26 Subcommittee hearing on the State Department's human rights country reports. Specifically, I would like to request a Subcommittee hearing to address recent findings by Guatemala's Historical Clarification Commission that the United States contributed to human rights abuses during that country's 36-year civil war.

As you know, the Commission, an independent truth panel set up under the 1996 peace accords, recently released its report on human rights violations during the conflict. The Commission's coordinator concluded, among other findings, that "the United States Government, through its constituent structures, including the Central Intelligence Agency, lent direct and indirect support to illegal state operations." Given that the report also found such state actions were responsible for approximately 93 percent of the atrocities -- including "acts of genocide against the Mayan people" -- in a war that left 200,000 dead, the conclusion of U.S. involvement is deeply disturbing.

I believe that a hearing before the Subcommittee on this matter might serve the best interests of the US and Guatemala in addressing both the recent past and the near future, because:

- It would enable the Congress to fully consider the issues raised by the report in a coherent, public forum, rather than leaving discussion of its contents to those who would reflexively blame the US for the excesses of this conflict;
- A hearing would permit Congressional oversight of the American government's \$1.5 million financial contribution to the project and declassification of thousands of federal documents for the Commission's use;

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- By publicly disclosing and reviewing the facts of American involvement, particularly any specific knowledge of human rights violations, the US would accelerate the quest for truth and justice in Guatemala (as the brutal murder of Bishop Juan José Gerardi revealed, it is still dangerous for Guatemalans themselves to identify those responsible for war crimes);
- In particular, this inquiry might be useful in further exploring charges of genocide, forced relocation, and religious and racial persecution; by contributing fully to the investigation, we can underscore the importance of pursuing those guilty of crimes against humanity, even if they were once our clients;
- The report's findings of the Guatemalan military's overwhelming responsibility for atrocities should be carefully examined in light of possible Congressional action to allow the same military to participate fully in US-funded programs;
- American willingness to reveal what we know would send a message to those who are still resistant to civilian rule (whether members of Guatemala's military or former guerrillas) that the US will no longer turn a blind eye to human rights violations -- which are still continuing; and
- Finally, US officials would have the opportunity to publicly detail the many positive aspects of our engagement in Guatemala, including support for the peace process, governmental and judicial reform, and reconstruction from Hurricane Mitch.

American involvement in Guatemala's civil war remains one of the least understood -- yet most emotionally charged -- episodes of our Cold War history in Latin America. The Commission's report has helped to answer many of the questions surrounding this bloody conflict; a hearing before your subcommittee would further clear the air. Therefore, I urge you to give this request your highest consideration.

Thank you.

Sincerely,



William D. Delahunt

cc: The Honorable Cynthia McKinney, Ranking Member

