

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1995

HEARING
BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL OPERATIONS AND HUMAN RIGHTS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED FOURTH CONGRESS
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TUESDAY, MARCH 26, 1996

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

The committee met, pursuant to call, at 10:10 a.m., in room 2172, Rayburn House Office Building, the Honorable Christopher H. Smith (chairman of the subcommittee), presiding.

Mr. SMITH. The subcommittee will come to order.

Good morning, ladies and gentlemen. A little over a year ago, the Subcommittee on International Operations and Human Rights held its first hearing. I commented at the time that it was appropriate that the first hearing of the new subcommittee should be for the purpose of receiving and to begin analyzing the 1994 Country Reports on Human Rights Practices and that our first witness should be John Shattuck, the Assistant Secretary for Human Rights.

I am pleased to welcome Secretary Shattuck back this year on behalf of the subcommittee. I just wish the occasion could be a happier one.

Our witnesses today agree and the evidence is clear that the last year has not been a good one for the state of human rights around the world. The totalitarian governments of China, Vietnam, and Cuba all renewed and intensified their persecution of political and religious dissidents. People like Wei Jingsheng, the father of the democracy movement in the People's Republic of China, got 14 years for espousing freedom and the protection of human rights in his country.

China continued and, according to several reports, actually expanded the heinous practice of forced abortion and forced sterilization. This subcommittee has heard chilling testimony from women who had been forcibly aborted in China, who are now awaiting deportation back to that country, something we're fighting, as you know, Mr. Secretary. But it is getting worse in China.

We've also heard of the so-called "dying rooms" in the China Government orphanages, in which unwanted children are deliberately left to die of starvation, disease, and gross neglect.

The dictatorship in Nigeria staged a public hanging of eight members of the Ogoni ethnic minority, including the highly respected novelist and environmentalist, Ken Saro-Wiwa. Iran followed that up by sentencing a member of the Baha'i religious minority to death for a crime of national apostasy.

Extremist Islamic regimes also continued their persecution of Christians and Jews, and also of Muslims who were judged to be incorrect in thought, word or dress.

There were politically related killings in Haiti, a country in which the United States and other nations spent millions of dollars trying to reestablish democracy.

Jews in the newly independent States of the former Soviet Union are threatened by resurgent anti-semitism and ultra-nationalism. At a recent hearing we heard of the rising tide of anti-semitism. We also heard expert witnesses tell us how anti-semitism is becoming privatized in the former Soviet Union, with more acts of prejudice being recorded each and every day.

The practices of child labor, female genital mutilation, and the trafficking in women for the purposes of prostitution continue unabated.

Just recently we heard some compelling evidence about human chattel slavery in the Sudan and Mauritania, which has been brought to light by some of the anti-slavery groups that are doing yeoman's work in trying to expose those crimes.

Even the few bright spots, such as the end of the brutal genocidal armed conflict in Bosnia and the release from house arrest of Burmese leader Aung San Suu Kyi, were clouded by uncertainty about whether they could be regarded as steps toward ending the gross violations of human rights and hopefully toward a respect for human rights.

Unfortunately, part of the blame for this situation must rest with our own government. James O'Dea, who was then with Amnesty International, said last year, "Human rights is an island off the mainland of U.S. foreign policy." The Country Reports are generally accurate and carefully compiled, but it appears that too many government officials regard them as items to display on a shelf and to point to when someone complains that we are not doing enough about human rights, rather than a prescription for policy.

As Mr. O'Dea put it, when the reports are not used as "a basis for a plan of action", they "only serve to prevent the integration of human rights into the full range of policy development and implementation".

We in the United States regard certain rights as fundamental, universal and inalienable. As the framers of the Declaration of Independence understood, these rights are inalienable because they are essential to our nature and they are given to us by God. They are too important to be taken away by governments.

And the subjection of innocent people to these unspeakable violations of basic human rights is also too important to ignore when we are choosing our trade partners, formulating our immigration and refugee policy, selling military equipment, and exchanging toasts with officials of foreign governments.

As I have said before, it is particularly inappropriate when the subordination of human rights to other concerns—such as trade, immigration control, or congenial relations with despotic but strategically useful governments—is justified on the ground that these are "U.S. interests". This formulation misses the point: the most

important U.S. interest is the promotion of freedom and democracy and decency.

We are strong enough and prosperous enough that we have no need to accept blood money, or to send refugees back to persecution, or to seek our alliances among regimes that murder and torture their own people.

In this connection, I want to thank and congratulate the Administration for its strong opposition to the recent efforts to enact a "refugee cap", which would have cut refugee admissions to the United States by over 50 percent at a time when persecution is on the rise.

There are perhaps as many as 20 million refugees in the world and a similar amount of people who are displaced within their own countries. Not all of these refugees are in need of resettlement. Some only need protection until it is safe to go home. And only a small percentage of those who do need resettlement can be accepted into the United States.

But to cut the number in half and then to impose the reduced number as a statutory limit would have sent exactly the wrong message to the refugees themselves, to other governments whose help we need, and to the people doing the persecution. The effort to save the refugees was a bipartisan effort and again I thank the Administration for its help.

On some other matters I am still deeply concerned. The Administration has justified its policy of "constructive engagement" with the government of China by saying this is the best way to improve human rights in the long run. How long do we have to wait for the policy to start working? How many more forced abortions, how many more dying rooms, how many more arrests and trials and convictions of brave and innocent people like Wei Jingsheng and Harry Wu?

How much longer does Beijing have to continue its brutal occupation of the Nation of Tibet, its suppression of Tibetan Buddhism, its persecution of evangelical Christians for worshipping outside the State church, or Catholics for believing that the church is headed by the Pope, rather than the committee of atheists appointed by a dictator?

When do we admit that our engagement has not been constructive, that it may even have been destructive of human rights? The unintended but inescapable message of our dealings with the Chinese Communists—the message that emerges from the objective data, from where our words and actions have been strong, as well as from where they have been weak—is that we will tolerate the destruction of as many lives as they like, if they will only stop pirating our software. We are putting profits above people.

I know these are tough questions but I think they're also fair questions that must be answered. I look forward to the testimony of Assistant Secretary Shattuck, as well as our distinguished witnesses from human rights organizations: Amnesty International, Human Rights Watch, Freedom House, and the Lawyers Committee for Human Rights.

At this point it's my pleasure to introduce our distinguished chairman of the Full Committee on International Relations, Ben Gilman.

Mr. GILMAN. Thank you, Chairman Smith. I want to commend you for taking the time, and in a timely manner, too, to bring to our attention the Country Reports on Human Rights Practices for 1995 and I certainly welcome our distinguished panelists, and particularly Secretary Shattuck, who's been at the forefront in our battles of trying to remind other nations of their responsibilities in the human rights battles.

I want to commend the secretary and his staff for the fine and thorough job they've done this year, for their candid assessment of the reports that they have issued. By and large, they provide each country's human rights performance record for the Congress and for the entire world.

Abuse of human rights practices, of course, still plagues many of the world's citizens in countries such as Burma, Vietnam, China, Tibet, Iran, Cuba—I could go on and on—Afghanistan, Liberia, Guatemala, Kashmir. The list is much too long to include all of them and I hope our secretary will be able to give us a brief note with regard to them.

I would note that in an article in today's New York Times, it details how abuses in Tibet have increased over the past 2 years.

I'd like to raise specific concerns today about the situation in Bosnia, in the former Yugoslavia, where we have made an enormous investment in the form of lives of our brave young men and women serving with IFOR and in the billions of dollars of taxpayers' money being spent in an attempt to bring long-term peace and stability to that region.

The burning and the looting of the Serb-controlled portions of Sarajevo prior to the mass flight of Serbian citizens during the past few weeks is a dramatic vote of no-confidence for the prospects for ethnic reconciliation in Bosnia. The behavior of the Serbs, while in compliance with the minimal military requirements of the Dayton Accords, demonstrates that they don't accept the premise underlying the accords, that the ethnic groups of Bosnia can co-exist within a single political entity.

Lack of progress in bringing to justice those guilty of the massive atrocities that were committed in the former Yugoslavia over the past 4 years also jeopardizes the success of the Dayton plan. Despite the pledges of assistance given by IFOR commanders to the International Tribunal, we still see outrageous flouting of the international community, literally under the guns of the NATO troops, by the likes of General Ratko Mladic and Radovan Karadzic. The tardiness on the parts of the Serbian and Croatian Governments in cooperating with the tribunal by handing over those who've been indicted is certainly troublesome to all of us.

In Kosovo, where the stage for the conflict in the former Yugoslavia was set, we see continuing repression of the majority Albanian population at the hands of the regime of Serbian President Milosevic. A recent poll conducted by the U.S. Information Agency suggests that not only is independence for Kosovo supported by over 90 percent of the Kosovan population, but that over 90 percent are willing to die for independence.

Clearly, Kosovo remains a volatile flashpoint that can undo everything that's been done to bring peace to the former Yugoslavia. Moreover, the Kosovans can rightly feel that their plight has been

ignored, as the international community has attempted to forge a peace in Bosnia.

Secretary Shattuck, I know that you agree that peace in the Balkans cannot be assured until the legitimate rights of the people of Kosovo have been secured.

Thank you again, Mr. Chairman, for holding this hearing in such a timely manner. We look forward to our witnesses' comments and suggestions during the hearing.

Mr. SMITH. The chair recognizes the distinguished chairman of the Full Judiciary Committee and a member of our subcommittee, Mr. Hyde.

Mr. HYDE. I thank you, Mr. Chairman. I associate myself with the remarks you made and our chairman, Mr. Gilman.

I just very briefly want to say that the philosopher William James once said something like, "If you would lead a successful life, attach yourself to a cause that outlives you." And the cause of human rights is certainly such a cause and I salute you, Mr. Chairman, for being the point man on this issue, this painful issue, this essential issue, and for reminding us of our responsibilities and duties.

And I also commend Mr. Shattuck, Patricia Rengel, Holly Burkhalter, Nina Shea and Michael Posner for their dedication of really their professional lives to this cause, which will out-live us all. Thank you.

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

Mr. Moran.

Mr. MORAN. Thanks very much, Mr. Chairman.

We have the right person in the right place, Mr. Shattuck, and I appreciate all that you have been doing on behalf of the recognition of human rights as a priority throughout the world.

There are so many violations of human rights, you don't know where to start. Chairman Smith enumerated a number of them. I'm glad that Chairman Gilman spoke specifically to the situation in Bosnia and I share Chairman Hyde's human rights concerns, as well.

I would like to focus on a specific area, though, for which I hope we can develop legislation. That is with regard to the widespread exploitation of very young children who are being forced into slave labor. We are enabling this to happen in many ways through the purchase of products that we import, looking only at the fact that they are handmade and at an inexpensive price and ignoring why they are so inexpensively made by hand.

It is unconscionable for the United States to be complicit in any nation's economic boom which is based, in large part, on the exploitation of children.

This issue came to prominence at one point when a young boy by the name of Iqbal Masih was sold by his father in Pakistan. His father got \$14 for him and he was then put in a warehouse where he was chained to a loom making carpets in Pakistan. (Fortunately, an American group rescued him.) He came over to North America and spoke out in the United States and Canada and then, a year later, returned to Pakistan, where he was executed after speaking out about the situation.

That is an uncommon experience because it is so unlikely for any of these children to escape, but his situation is not uncommon. I know that there's no way that we are going to eliminate child labor overnight, but we ought to devote some resources to addressing the problem and we ought not sustain the demand for these products that are made so cheaply only because they are made on the backs of little children.

In many of these countries, they want the small little children because they have tiny hands and they can sew better. They will burn the tips of their fingers so that if a needle sticks into their finger, they can continue working; they don't feel it. And they don't feed them much because they don't want their hands to grow. They don't give them virtually any exercise or sunlight in many cases, and most of them die by the age of 12.

We have this situation existing in China, in Pakistan, in India, in many Asian, African and South American countries. In Brazil, for example, the constitution forbids labor under the age of 14, yet tens of thousands of children start cutting sugar cane at the ages of 6 or 7. We have a report that says that they have to cut up to four tons of sugar cane each day in order to receive their minimum wage. If they don't cut four tons, then they don't get paid at all. They work for about 12 years, as well, because by then they have either lost an arm or a leg due to the danger of cutting sugar cane, particularly at that young an age.

Pakistan, I mention it. They have made debt bondage illegal and yet their government is not enforcing these laws. And, more often than not, they return the children to their captors rather than prosecute the people who are violating the law, and they do that with, I think, the complicitness, if not explicit instructions of the government, because it's generating a lot of income for the country.

We look at these things, I know, from a different cultural and developmental and educational perspective, but that doesn't mean that we can ignore it in any good conscience. We know that people are making great wealth from the sweat and toil of children. Those children are normally taken from their parents. Whatever the promise is made, the fact is that they're taken far from home. They oftentimes never see their parents again.

There are language barriers. There are physical barriers. The fact is that they are used as virtual slaves. And if there's going to be any prosecution, it's for illegal immigration.

The fact is that your report does point up some of this. It says that Pakistan is doing a little better job. I think that's probably kind of a rosy scenario, but I'm sure there is some improvement. I appreciate the fact that the State Department has monitored this. I know it's something where you share a deep concern for this, and I would like to get some response from you and work with the State Department in perhaps developing some legislation that might require certification that the products we're importing are not made by child slave labor.

And with that, I'm just going to leave my comments to that one particular area. There's a whole host of things we're interested in but we appreciate your testifying before us today, Mr. Shattuck.

Thank you, Mr. Chairman.

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

Mr. Secretary, welcome to the subcommittee. John Shattuck was sworn in as Assistant Secretary of the Bureau of Democracy, Human Rights and Labor on June 2, 1993. Before a 9-year stay as vice president of Harvard University, where he taught human rights and civil liberties law as well, Mr. Shattuck was executive director of the American Civil Liberties Union Washington office from 1976 to 1984, and the ACLU's national counsel from 1971 to 1976. Mr. Secretary, welcome to the committee.

STATEMENT OF THE HONORABLE JOHN SHATTUCK, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Mr. SHATTUCK. Thank you very much, Mr. Chairman and Chairman Gilman, Chairman Hyde and Mr. Moran. I'm very pleased to appear before you here today on a matter of great importance to our foreign policy, to our country on a matter that reflects a strong, bipartisan, long-term commitment that we have made in this country to human rights, working between the executive branch and the Congress.

I would like to begin my prepared remarks, Mr. Chairman, first by noting that I have an extensive statement which I'm submitting for the record.

Mr. SMITH. Without objection, your full statement will be made part of the record.

Mr. SHATTUCK. And I will cover portions of it in my opening statement here. I would like to start my remarks by commending the hundreds of dedicated State Department officers and others who have worked on the Country Reports, especially my own staff. As a number of the comments here have reflected, this is a very intensive and important work that takes a great deal of effort, which, I think, is reflected in the product.

Mr. Chairman, I am proud to say, in introducing these reports, that under U.S. leadership, several events of 1995 marked progress toward the resolution of some of the world's most catastrophic human rights crises. Most dramatically, the November Dayton Accords, in which I was directly involved as a negotiator, ended the fighting in Bosnia, which, for the first 6 months of the year, was the source of continuing massive and highly publicized genocide and crimes against humanity.

At the heart of the Dayton Accords is a framework of commitments and institutional mechanisms aimed at restoring human rights and promoting justice, without which peace cannot be secured and which are unparalleled in any other comparable peace treaty that has been negotiated ending a conflict.

Other conflicts which had spawned major human rights violations also moved closer to resolution; 1995 saw steps toward peace in Angola, the Middle East and Northern Ireland, with inevitable setbacks along the way toward the resolution of long struggles.

In Haiti, continued progress toward the restoration of democratically elected government, with the assistance of the U.S.-led Multinational Force, marked another bright spot for human rights.

In Central and Eastern Europe, as well as in Latin America and in parts of Asia and Africa, some new democracies consolidated

their movement toward more open civil society and a few experienced peaceful transfers of power through democratic elections.

Internationally, a number of new human rights institutions took root; especially noteworthy was the work of the International War Crimes Tribunals for Rwanda and the former Yugoslavia in The Hague.

The U.N. Fourth World Conference on Women focussed global attention on the rights and empowerment of one half of the world's people, many of whom suffer discrimination and mistreatment in every part of the globe.

At the same time, in many countries around the world widespread abuses of human rights continued unabated in 1995. The pages of the 1995 Country Reports document innumerable instances of extrajudicial killings, disappearances, torture, arbitrary detention, and denial of fair trial in all parts of the world.

Fundamental freedoms of conscience, expression, assembly, association, religion, and movement were routinely violated by many governments. Discrimination based on race, sex, religion, disability, language or social status was a pervasive problem in many societies. Basic worker rights were often denied and child labor was exploited.

While democracy advanced in many countries, it registered uneven progress in others; some young democracies were snuffed out by violent coups d'etat. Continuing conflicts in Afghanistan, Burundi, Chechnya, Guatemala, Kashmir, Sudan and elsewhere resulted in major human rights violations.

In countries such as Burma, China, Cuba, Iran, Iraq, Libya, Nigeria and North Korea, governments continued systematically to deny basic rights to their citizens.

Mr. Chairman, the post-cold war world poses many new challenges to human rights, as we have noted in these hearings in the past, particularly abuses stemming from the dissolution of State authority, from the manipulation by cynical leaders of ethnic, racial and religious differences to incite atrocities against civilians.

Bosnia provides a stark example. The efforts in 1995 to end the horrors of Bosnia yielded valuable lessons that might be applied in future conflicts. Intensive U.S. diplomacy, backed by credible force with justice at the heart of the resolution of the matter, led to the Dayton Accords, which ended the conflict.

The drafters of the Dayton Accords recognized the essential relationship between peace, justice and respect for human rights, again unique in a peace agreement. The Accords provide an interlocking structure of constitutional guarantees, new institutions, including a constitutional court, a human rights chamber and ombudsman; international monitoring of elections and human rights performance, and a mandate for the investigation and prosecution of war crimes.

This unprecedented peace agreement synthesizes human rights, justice and conflict resolution in a framework that has the best chance of securing a real peace.

The diplomatic and military efforts to end the human rights crisis and restore democratic government in Haiti were an important forerunner to the Dayton Accords; in Haiti, as in Bosnia, we saw that international support for the reconstruction of civil society,

democratic institutions and the rule of law is essential to ending human rights catastrophes.

The successful transition from a conflict-ridden past to democratic governance is aided by official efforts to acknowledge the sufferings of victims and honestly reckon with the past. In settings ranging from Chile, Argentina and El Salvador to South Africa, Germany and South Korea, a variety of institutions, rooted in local political cultures, has arisen to address the need for accountability as a prelude to reconciliation.

The U.N. War Crimes Tribunals in The Hague, which the United States was in the lead of establishing, represent one of the clearest attempts by the international community to integrate justice with reconciliation and peace.

Mr. Chairman, in a number of countries, familiar patterns of abuse occurred in changing contexts in 1995. The Chinese Government continued to commit well-documented human rights abuses in violation of international norms. Although there was greater emphasis on legal reform, by year's end almost all public dissent against the central authorities was silenced.

In Russia, while Communist totalitarianism has been succeeded by electoral democracy, the future remains uncertain. This year saw a continued and widespread use of Russian military force against civilians in Chechnya, and the undermining of official institutions established to monitor human rights.

The government of Cuba's behavior regarding human rights remains deplorable; human rights activists and dissidents are regularly arrested, detained, harassed and persecuted, while the Cuban people continue to be denied the most fundamental rights and freedoms.

Nigeria presents a classic picture of human rights abuse as the regime of General Sani Abacha continues ruthlessly to suppress dissent.

The situation in Colombia has not improved, owing to entrenched conflict among security forces, guerrilla armies, paramilitary units and narcotics traffickers, compounded by the near impunity of narcotics traffickers.

In Guatemala, serious human rights abuses continue to occur, although significant progress was made in the peace negotiations between the government and the guerrillas. Several human rights activists were also elected to Congress in the November elections.

Indonesian security forces in East Timor and Irian Jaya were responsible for significant abuses, although the government was willing in some cases to prosecute those charged with abuses.

Outposts of unreconstructed totalitarianism remain in Iraq, Iran and Libya. Severe human rights problems persist in North Korea, despite progress on some other issues under the Agreed Framework.

In Burma, the State Law and Order Restoration Council continue to rule with an iron hand and to commit a wide range of serious human rights violations, although the release from house arrest of democratically elected leader Aung San Suu Kyi was a positive development.

While Turkey has instituted significant legal and constitutional reforms, it has not yet ended a continuing pattern of serious

human rights abuses, including restrictions on freedom of expression, torture, and the excessive use of force against its Kurdish population in the course of the struggle against PKK terrorism in the southeast.

Egypt's long campaign against Islamic extremists has entailed continued abuses, including alleged extrajudicial killing and torture.

Saudi Arabia continues to restrict basic freedoms of expression, association and religion, and systematically discriminates against women.

The government of Mexico made an effort to end the culture of impunity surrounding the security forces and to initiate comprehensive justice reform. Serious problems remain, however, such as extrajudicial killings by the police and illegal arrests.

Ethnic strife continues to complicate efforts to resolve instability in Burundi and Rwanda. In Sudan, the brutal civil war waged along ethnic and confessional lines exacted an inexorable toll in human suffering.

Mr. Chairman, this year saw an increased international focus on the human rights of women and the advancement of their status. At the Beijing conference, governments reaffirmed the universality of human rights and explicitly accepted the principle that women's rights are in the mainstream of all human rights.

The Beijing Declaration and Platform for Action committed governments to take specific steps to end violence against women, address the problem of rape in armed conflict as a human rights violation, called on the United Nations to integrate women into decisionmaking, urged an end to harmful traditional practices, such as female genital mutilation, and dealt with issues of gender discrimination.

The 1995 Country Reports chronicle the many abuses of women's human rights which continue around the world and include information on the steps some governments are taking to address these problems, prodded by the courageous work of nongovernmental organizations.

Failure to respect basic worker rights, as defined in several key International Labor Organization Conventions, is a growing problem in many countries. These core worker rights include freedom of association, which is the foundation on which workers can form trade unions and defend their interests; the right to organize and bargain collectively; freedom from discrimination in employment; and freedom from child and forced labor.

Despite broad international recognition of these principles, free trade unions continue to be banned or suppressed in a number of countries; in many more, restrictions on freedom of association range from outright State control to legislation aimed at frustrating workers' legitimate efforts to organize.

For example, in 1995 Nigeria was cited by the ILO for its failure to repeal decrees dissolving unions and denying unions the right to elect their own leaders, two of whom in early 1996 remained jailed without charges.

For the third time the ILO condemned Burma for its refusal to guarantee workers the right to join unions. Similarly, the ILO called on Burma to terminate its forced labor practices.

The suppression of worker rights in Indonesia has remained a persistent international concern.

In some countries, religious differences were seized upon in 1995 as a pretext for human rights abuses. Elsewhere, religious differences themselves set groups in conflict, especially when these differences were related to ethnic differences as well.

The depth of the passions and commitments surrounding religious issues makes this an especially pressing and sensitive problem. Religious ideas and institutions have a major role to play in promoting respect for human rights. All the major religious traditions of the world offer deep resources and teachings that speak to the theory and practice of peace and justice, and many courageous men and women are putting these teachings to work in some of the hardest fought conflicts in deeply persecuted societies of the world.

No government, no matter how powerful or well-intentioned, can perform the human rights work being done at the grassroots by nongovernmental organizations, whose members often expose themselves to great personal risks. The grassroots work of NGO's is irreplaceable, not only because it is effective, but also because it is the strongest proof of the universality of human rights.

Precisely because NGO's are deeply rooted in local societies and cultures and spring from their own communities, their work has an undeniable authenticity and legitimacy. Unfortunately, human rights NGO's continue to face impediments, harassment and persecution in many countries of the world.

How does the State Department use the information in these reports which we are presenting to you today? Over the past 3 years, we have pursued a broad, multi-faceted agenda to mainstream human rights in U.S. foreign policy. Following a global directive issued by Secretary Christopher in August 1993, every U.S. embassy now has an interagency human rights committee that considers ways in which the United States can encourage respect for human rights and the development of democracy in the host country. The Bureau for Democracy, Human Rights and Labor coordinates this effort.

The tools we use include sanctions, trade and arms sales restrictions, loan blocks, the granting and cutoff of bilateral and multilateral assistance, human rights monitors and investigations, training programs, bilateral dialogues, and work with NGO, business and labor leaders. The use of these tools is tailored to particular country situations and U.S. interests and they have been applied in a wide variety of ways during the past 3 years.

On the multilateral side, we have led successful efforts to create new institutions to respond to human rights conditions in the post-cold war world. U.S. leadership helped create the new position of U.N. High Commissioner for Human Rights; the U.N. Commission on Inquiry on Burundi; the International War Crimes Tribunals for the former Yugoslavia and Rwanda; Truth Commissions for El Salvador, Haiti and Guatemala; and extensive international human rights monitoring missions in Rwanda, Bosnia, Haiti, Cambodia and Guatemala.

We helped establish the U.N. Human Rights Commission "special rapporteurs" to investigate violence against women, religious intolerance, and the independence of judiciaries. We have provided

assistance to victims of torture, and we have also worked to make the Organization on Security and Cooperation in Europe a more active organization in promoting human rights and democratic government throughout Eastern and Central Europe and the countries of the former Soviet Union.

We are building new international institutions of justice, accountability and human rights promotion, as well as new programs to promote democracy and assist countries in transition, in parts of Africa, Asia, Latin America, the Middle East and especially in the new States of Central Europe and the former Soviet Union.

In an era of shrinking budgets and resources, the Administration has sharpened its coordination of democracy programs to make the best use of assistance funds. We have forged closer relations with indigenous NGO's active in promoting human rights in countries in transition to democracy.

We have been in the forefront of the effort to win international condemnation of repressive regimes which are unlikely to be influenced by other policy tools. In the U.N. General Assembly and in the U.N. Human Rights Commission, the United States has helped spearhead the drive to condemn human rights abuses by the governments of China, Sudan, Cuba, Nigeria, Iran, Iraq, Burma and other violator regimes.

In especially egregious cases, such as Cuba, Iran, Iraq and Burma and previously Bosnia, Serbia and Haiti, we have imposed economic sanctions, often acting unilaterally. And we are considering similar action in other cases, including Nigeria.

In 1995, we forged an international coalition that for the first time defeated Chinese procedure maneuvering and brought a China Resolution before the U.N. Human Rights Commission. The resolution failed by a single vote. We are renewing and stepping up the effort this year, working with the European Union and a coalition of democratic countries from Latin America, Asia and Africa, as well as Central and Eastern Europe.

In putting human rights concerns at the center of our foreign policy, Mr. Chairman, we carefully tailor our approaches to encourage respect for human rights in all countries. But in 1995 we focused special, unique and, I would say unprecedented efforts, on a few key countries which were either U.S. foreign policy priorities or particular human rights disasters, or both. Let me mention two examples which fit into both categories—Bosnia and Haiti.

In Bosnia, human rights have been central to the negotiation and implementation of the entire peace process.

The Dayton Accords have more human rights elements built in than any comparable peace treaty. We have kept these issues front and center in the implementation process, which has been very difficult, as you have noted, and which I testified extensively about last month before this committee.

Last week, for example, I completed my 11th human rights mission to the Balkans, where I arranged for investigators from the International War Crimes Tribunal to obtain access to two Bosnian Serb prisoners in Belgrade who are being held in connection with the mass executions of Bosnian Muslims near Srebrenica last July. With Secretary Christopher, I negotiated in Geneva a transfer of

the prisoners to the custody of The Hague by the end of this month.

Haiti is another key example of human rights issues taking center stage in American foreign policy. It was unprecedented for a multinational coalition to join together to take concerted action to restore a democratic government that had been overthrown. We have now seen a crucial second democratic election in Haiti and the installation of a new President. It was U.S. leadership that made this happen and we are hopeful that we will continue to see dramatic improvement in the human rights situation, now that Haiti not only has a democratically elected government but has seen a peaceful transition of authority to a new president following its second Presidential election.

Finally, Mr. Chairman, we are working both multilaterally and bilaterally to promote greater respect for worker rights and to end the abuse of child labor. At last year's ILO conference, our efforts centered on winning a condemnation of Nigeria for suppression of its trade union movement. We also cooperated with the ILO to improve the child labor situation in Bangladesh.

Last year a new tool, the U.S. Voluntary Code of Model Business Principles, became available to assist our work in this area. The code has been widely endorsed, and we are working actively to promote it.

In the World Trade Organization we have led the effort to maintain the connection between worker rights and the international trading system, both to promote greater respect for core labor standards such as freedom of association, and to ensure the political support we need for further trade liberalization.

In conclusion, Mr. Chairman, the Country Reports on Human Rights Practices for 1995, I believe, exemplify the bipartisan commitment that the United States has made to ensuring that the protection of human rights and the promotion of democracy are central elements in U.S. foreign policy. It's a very difficult road. There are many abuses. The situation in many countries is dire, as we described. But I think the flag of the United States flies very high on the issue of human rights and the international leadership to try to advance the situation of human rights in country after country is something of which we can be justifiably proud.

The executive branch is proud to have joined the Congress in advancing the commitment that was made two decades ago when these reports were mandated. Thank you very much, Mr. Chairman.

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

Mr. SMITH. Thank you very much, Mr. Secretary. I'd like to begin the questioning and, if necessary, we'll have two rounds because I know I have a number of questions and I know my colleagues do, as well.

One of the overriding criticisms of this Administration has been that it has made very fine statements on human rights but there has been no connection when it comes to the implementation of that policy. Nowhere was that more evident than the President's executive order, on the People's Republic of China, establishing milestones that would have to be reached prior to conferring MFN

for an additional year, none of which were met. Significant progress was more like significant regression. Then, regrettably, the President ripped up his executive order and gave China most-favored-nation status for another year.

I personally believe that sent a message around the world about our seriousness on human rights when it comes to policy. Several of our witnesses today, who will speak after your testimony, Mr. Secretary, make that same point. Michael Posner from the Lawyers Committee for Human Rights, says, "Despite the generally high level of the Country Reports and the continuing improvements in the reporting process, there is a striking gap between reporting and the realities of foreign policy decisionmaking."

Patricia Rengel from Amnesty International points out in last year's testimony that "Human rights is an island off the mainland of U.S. foreign policy. The Country Reports only serve to prevent the integration of human rights into the full range of policy development and implementation as long as they are not used as the basis for a program of action."

She points out that the disjunction goes one step further in the case of Turkey and makes the point, which is my second point—and this is also made by some of our other witnesses, including Nina Shea—that at times when necessary, even the chronicling of abuse is nuanced in a way that doesn't offend or that mitigates the offense that might be given to an offending country that practices these things.

And I speak now of India. Holly Burkhalter talks about India and points out that it is consistent with the overall downplaying of human rights concerns by the Administration, particularly the U.S. Ambassador in Delhi, and points out again that these abuses are not being reported the way they should be.

In many places, there are policy implications, like Turkey, where there's a proposed sale of Super Cobras that have been implicated—indeed there's been compelling evidence of their use—in attacks against certain populations in Turkey. We've had hearings on the Helsinki Commission, which I also chair, and have heard grave testimony of people, Kurds, who have been slaughtered with the use of those helicopters, and now we're poised to make an additional sale. That's pointed out here.

And we've had three hearings on the Helsinki Commission on the issue of Chechnya and the impunity with which Russia has treated the Chechans. They have committed human rights abuses, as well, but the Russian troops have done awful things to the people of Chechnya, and continue to do them. We call it an "internal affair", and that's brought out in some of the testimony that Amnesty International will be providing later on.

Again, this disconnect. We accurately chronicle some cases, only to do nothing at all and sometimes exacerbate the situation, as in the sale to Turkey. Or we simply turn and look the other way.

Mr. Secretary.

Mr. SHATTUCK. Well, Mr. Chairman, that question is in the category of I'm glad you asked me. I would like to spend the next 4 or 5 minutes outlining for you an extensive list of actions that have been taken. You'll note on page 15 of my testimony I describe the

various tools that are available to advance and promote human rights as part of U.S. foreign policy.

And I'd like to now speak with some specificity about the use of these tools in the last several years by this Administration in a variety of different categories. I certainly would be willing to go into further discussion with you about any one of them.

You'll note that we first mentioned the use of sanctions in settings where they seemed to be appropriate for the advancement of human rights or the punishment for the violation of human rights, where the United States feels that it will have an impact by imposing such sanctions.

In recent years we have imposed a variety of sanctions in Nigeria, Haiti, Cuba, Iraq, Iran, Libya and Zaire, all for human rights purposes. And, as I said in my testimony, at the moment we are giving active consideration to additional sanctions imposition in the case of Nigeria.

Obviously, one wants to look very carefully at the utility of this tool to make sure that it will work. The considered judgment of the Administration with respect to MFN in China at the time that the President made his decision in May 1994 was that to deny China MFN was very likely going to have a negative impact on the human rights situation in China. But I will speak at greater length about China in specific answer to questions about China.

On trade restrictions, in the case of Pakistan, we have suspended 50 percent of the GSP benefits as a result of our decisions with respect to Pakistan's child labor.

In Burma, GSP benefits have been completely suspended in the last 2 years.

We have suspended OPIC coverage in Qatar, Saudi Arabia and the United Arab Emirates, in large measure because of their denial of basic worker rights activities.

I testified last year on the issue of arms sales and in some 25 countries, the United States has imposed its basic ban on the sale of small arms and crowd control devices and other items that can be used to deny human rights in a variety of situations.

In Nigeria and Peru we blocked all arms sales. In Sri Lanka, Guatemala, Indonesia and Turkey, all countries which are of some degree of close importance to the United States, we nonetheless have selectively blocked those arms sales that could be used to commit human rights abuses. And, as you indicate, we take each of these cases on an individual basis, and that is certainly the case with respect to any future arms sales for Turkey which may be under consideration.

In the case of loans from international financial institutions, in the last several years we have blocked loans to Iran, Iraq, Mauritania, Cuba and Burma precisely for human rights reasons.

We have cut off bilateral and multilateral assistance, except for basic human needs, in countries in which a democratically elected government has recently been overthrown. This was the case in Niger, the Gambias, Zaire, Haiti, Sudan, Burma and Nigeria. And we vote against international loans, except for basic human needs, to China.

The United States has also led multilateral efforts to cut off assistance to Haiti and Cuba. We cut assistance in Haiti's case, when

the human rights situation was horrendous, before the deployment of the multinational force, which I think is one of the major commitments of resources, diplomatic authority and human rights implementation that we've seen, in addition to Bosnia, in the last 3 years.

With respect to human rights monitors and investigations, we have led in the creation of international missions in Rwanda, Bosnia, Haiti, Cambodia, Guatemala and Tajikistan. We support the position of the U.N. High Commissioner for Human Rights and the U.N. Special Rapporteurs to Iraq and Iran.

We helped create international investigative bodies, in Burundi, the International War Crimes Tribunals for the former Yugoslavia and Rwanda, and Truth Commissions for El Salvador, Haiti and Guatemala.

There are a variety of other affirmative programs that I could go into, as well, but I think you're primarily interested in the, shall we say, coercive or punitive efforts that may have been made with respect to countries that are significant violators of human rights. And I think the record is very clear on this. In fact, I suggest that it is probably stronger than any record of an Administration with respect to the use of these basic tools of foreign policy to advance human rights.

In the case of the two priority situations that I described, Bosnia and Haiti, these are truly, I believe, unprecedented. One might disagree with the policy, but I think one cannot take issue with the basic proposition that the United States has committed major diplomatic, military and economic resources to address two horrendous human rights situations and significantly improved them in the period during which we have been serving in office.

And I, as the Assistant Secretary for Democracy, Human Rights and Labor, am very proud to have played my part in this. Thank you.

Mr. SMITH. Thank you very much, Mr. Secretary. If you could address some of the issues that I raise. For example, if you could address the issue of Turkey's using U.S.-supplied military hardware, like helicopters, for the kind of atrocities that have been alleged. The proof seems to be rather compelling that raids have been made, innocents have been slaughtered, and yet we are poised to do another installment on that in terms of additional helicopters.

On the issue of China, as you know—and this subcommittee has had numerous hearings on human rights abuses in China—they have gotten demonstrably worse in every category of human rights. We will hear testimony later on from several witnesses about the crackdown on religious freedom, the lack of freedom in the PRC. The report fails to even use the words Roman Catholic Church, and it's precisely because it is the Roman Catholics upon whom the full weight of the dictatorship comes down.

I'll never forget, I visited with Bishop Su of Baoding Province. The next day he was arrested and held for 14 days. And, like you, I met with Wei Jingsheng for 3 hours. Two weeks later or so he met with you and he's gone for 14 years, and yet regrettably we continue the so-called constructive engagement.

Let me also ask you about the issue of the women who have been forcibly aborted who are here in this country seeking the bare min-

imum, asylum, because they have been forcibly aborted. We've had four hearings on this subcommittee, and markups, and have encountered unbelievable foot-dragging on the part of the Administration.

There's very little question about the accuracy of the ordeal that they have endured. It took a subpoena to bring three of the women and one of the men who have been forcibly sterilized into this hearing room so that we could hear their testimony. Up until the point they walked through that door, they had handcuffs on, which I insisted be taken off.

Mr. Hyde was at that hearing. We heard these individuals talk about their horrific ordeals, being forcibly aborted at 6 months, totally against their will. And yet this Administration continues to hold those women in custody, in prison, for want of any other word. They have absolutely no freedom. They went on a 40-day hunger strike not so long ago, as you know, to try to impress upon the Administration that they are being held, first by a totalitarian state and now in this country. It boggles my mind.

Mr. Hyde offered language on the immigration bill that passed the House last week, that would provide or reinstate the previous Administration's policy that, if there's a well-founded fear of persecution based on opposition to the forced abortion policy, or if the woman has been forced to have an abortion, or has a well-founded fear that she will be, she can get asylum here.

And under the Reagan and Bush years 100, 150 women—and that's all—got asylum under those provisions. I offered it on the H.R. 1561, Mr. Gilman's bill, and that's now passed conference, and yet we see no action.

We've pleaded. I asked Mrs. Clinton face to face at the Beijing Women's Conference to intercede on behalf of these women, who have already been violated in the most cruel way by their State, the People's Republic of China, and yet they're still in prison.

You know, I respect you. You do great work in Bosnia and around the world. I would ask you to be an advocate for the women who are here, who have been forcibly aborted and are saying, "Please, just let us live in peace." Because you know as well as I that if they go back, they have targets on their backs. They will get a one-way ticket to the Laogai and will spend months, if not years, in the Gulag system in China.

Mr. HYDE. Would the gentleman yield?

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

Mr. HYDE. I just want to add to your quite accurate comment. These women, who were not only in handcuffs but had chains on their legs in the other room, one of them testified that her great sin was picking up a baby girl that had been thrown away by the side of the road, because she already had a child. She violated the two-child—she was pregnant. They forcibly sterilized her or aborted her. The other woman said she lived in a cave to avoid the authorities.

God, if they're not refugees, if they're not entitled to asylum, I don't understand what that term means. But that they're still in jail, that they're still going to be forcibly deported back there is a real reproach to our country.

I thank you for bringing that up.

Mr. SMITH. Mr. Secretary.

Mr. SHATTUCK. Mr. Chairman and Mr. Hyde, let me address the issue of the coercive measures in the population area first and then turn back to Turkey.

Our position, and I wanted to check this with my staff but it is clearly the case, is that we have supported and continue to support the amendment that was in the State authorization bill that recognized explicitly coercive population control as a criteria for asylum. It was not included in the final version of the bill, as I understand it.

It was included in the final version?

Mr. SMITH. The Administration was silent on the provision. We were hoping for support. In the past, there was opposition. But it's in the conference report and it's also again in the immigration bill.

Mr. SHATTUCK. It sounds as if there is some work that can be done on this very explicitly. But let me also speak to the issue more generally. Clearly, this is a major human rights issue. There's no question about it. It's an issue that I have raised each time on my four human rights missions to China with the State Family Planning Commission and with the Chinese Ministry of Health.

We believe that any individual who seeks to have a child and is formally coerced individually is denied their human rights, and that population controls can certainly be addressed without coercion of the kind that's described.

The issue of asylum and the specific criteria for determining asylum, as the courts have established, and as the Immigration and Naturalization Service have applied, is sometimes not as broad as one might like to have it in terms of being able to address the issue that we're describing here.

On the other hand, I think we also want to be very careful not to make generalized judgments, so that nobody has to prove anything other than the fact that they have come from China; because that itself, I think, would be a significant dilution of the whole concept of asylum, which is generally regarded as applicable for political reasons.

But I do not in any way diminish the importance of the issue that you're raising by making that point. And certainly as the State authorization bill proceeds, this is an issue that can be looked at very closely.

Mr. SMITH. Would the secretary yield on that?

Mr. SHATTUCK. Yes.

Mr. SMITH. The Administration needs no additional authority, no explicit authorization to implement this policy. You don't need the OK from Congress to do it. You can do it today. And the reason why these women would have been long gone, in my view, had it not been for the outcry of members of the House and the Senate who simply will not abandon them.

Let me also point out that it was the Administration, in the first week of its existence, in January 2 years ago, that issued language that blocked the implementation of the final rule that had been promulgated by the Attorney General.

So you have it within your authority to free those women this afternoon if you're so inclined. And in the past, it was a total straw man argument to suggest that there's going to be this massive im-

migration of would-be asylum seekers. It didn't happen during the several years that it was in effect during the Reagan and the Bush years. As I said earlier, 100, 150 women.

The general counsel of my subcommittee was the general counsel of the INS Immigration Service, Grover Joseph Rees, and he can attest to the fact that that has not happened. The facts are as plain as the nose on my face.

So I implore you—as I asked Mrs. Clinton in Beijing when she made a strong statement against the egregious practice of forced abortion but wouldn't name China, which was a disappointment, though she did speak on the issue generically—to look at the women. Go and look at those women eyeball to eyeball and say, "My God, we have to help them." All we have to do is open up the opportunity for them to be here.

Mr. SHATTUCK. Well, I'd be happy to respond further to you on this. I think I've said what I have to say at this point on it, but we will certainly give you more information.

[The response follows:]

All we have to do is open up the opportunity for them to be here.

The Administration continues to be concerned about the problem of coercive population measures, which were highlighted in the Department's latest Human Rights Report. The Attorney General has exclusive authority to grant asylum in the United States and, as a general matter, asylum claims are independently adjudicated on a case-by-case basis. In 1994 the INS issued guidance designed to provide administrative protection from return to those persons who are denied asylum but nevertheless make credible claims that, upon return to their country of origin, they would face severe mistreatment due to their resistance to abusive family planning practices. Ten of the Golden Venture passengers have been granted relief under the INS directive.

We understand from the INS that the total number of Chinese women currently detained who have requested asylum, without regard to the specific nature of the claim, actually numbers less than 50 persons. These women have presented claims for relief under the immigration laws before Immigration Judges, the Board of Immigration Appeals, and in many instances before the Federal Courts. We understand that these proceedings and review process have been completed, these cases are close to final resolution, and we anticipate that the Service will be concluding action in the near future.

Let me move to your other question, on Turkey. There, with respect to arms sales, Mr. Chairman, I would direct your attention to the report that my bureau and the State Department produced last year that was publicly released on the issue of the use of arms in Turkey to violate human rights. It was clearly a very controversial report but an important one, I think, that honestly assessed the situation and did conclude that in several instances, arms, particularly arms sold by the United States, could have been or were used to violate human rights of civilians in Turkey.

The issue of arms sales is taken very seriously by us, as I indicated before. Every arms sale is reviewed with a human rights component of review, along with other components, and, on a case-by-case basis, decisions are made whether particular arms are going to be sold.

With respect to small arms, crowd control devices and other arms that clearly would have an anti-personnel use in a country that has a very negative human rights record, we have a broader policy, which generally denies those kinds of small arms sales.

Clearly with respect to a country that is a NATO ally, a very important and strategic ally, we're going to review all arms sales with

that additional component, and I can give you my guarantee that the work of not only the Human Rights Bureau but the State Department generally in reviewing arms sales to Turkey and other countries is going to be very thorough with respect to human rights considerations.

Mr. SMITH. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

Mr. Secretary, has the U.N. Human Rights Commission been effective in advancing the cause of human rights around the world?

Mr. SHATTUCK. I think the U.N. Human Rights Commission is the embodiment of the principle of the universal application of human rights throughout the world. There is no other international body which brings together all the countries of the world and which is mandated by the statute setting it up to apply universal standards throughout the world.

It provides a channel different from either a regional channel or a bilateral channel for raising human rights issues. We obviously do a lot of bilateral human rights work, as well as regional human rights work.

But in the case of the U.N. Human Rights Commission, I would say yes. It has been a very important instrument for assuring that the principle of universality is maintained at a time when there are many countries who are trying to attack that principle.

Mr. GILMAN. For example, what have they been able to do with regard to the violations, many violations, by the People's Republic of China?

Mr. SHATTUCK. I think the U.N. Human Rights Commission is probably the single most important instrument for, at least on a multilateral basis, addressing the human rights violations in China.

Last year, with U.S. leadership, for the first time, China, which had been consistently seeking to escape from the scrutiny of the commission, was defeated in its effort to maneuver procedurally to prevent the commission from bringing to a vote a resolution on China.

China obviously takes this extremely seriously. It lobbies around the world. It presses other governments very aggressively not to take up these issues in the U.N. Human Rights Commission. I think we can only assume from that that the kind of scrutiny that the Human Rights Commission can give to a country such as China is very important to China, in the sense that it is trying to escape scrutiny. A resolution would have a very negative implication for its entry into the international community, which is not going to be possible fully until China is more responsive on human rights issues.

Mr. GILMAN. What role should the NGO's be playing in all of this? I note at the 1993 U.N. Human Rights Conference in Vienna, Secretary General Boutros Boutros-Ghali chastised the NGO's because they sometimes operate, and I quote, "in a disorganized, dangerous and ill-conceived manner for the protection of human rights".

Do you agree with that?

Mr. SHATTUCK. I think NGO's are an absolutely critical element of the advancement of human rights around the world, both inter-

national NGO's and NGO's that are operating within their own countries.

I think we've seen the advance, over the last 5 years, of a grass-roots movement for greater democracy, more human rights, even at the same time that we've seen these abuses that are chronicled in our report.

And I think we see this even in countries that are under the most difficult circumstances. It is NGO's, it is popular groups, who are coming together, often at great risk to themselves, to be able to advance this cause.

We saw them at the U.N. Fourth Conference on Women in Beijing. We saw them at the U.N. World Conference on Human Rights in Vienna. As a former NGO leader, I think I would both agree with that and take issue with it at the same time. These grassroots activists, however disorganized they may be, are a critical component of the advancement of human rights.

Mr. GILMAN. Mr. Secretary, one of the groups that will be appearing before us today, Amnesty International—Patricia Rengel will be testifying—in their testimony, they recommend, and I'd welcome your thoughts about it, that in addition to the citing in the Country Reports the violations, that you summarize major initiatives by our government to prevent violations and summarize the response of the offending governments, and that should be used as a basis for both the Congress and the Administration for further action. What are your thoughts about that?

Mr. SHATTUCK. Well, I think that's what I feel that we're doing in this hearing this morning. It's certainly been my intention in coming here this morning to present you with as much information as possible about the precise actions that have been taken by the United States, tools that we are using to advance human rights, both punitive and affirmative, and that information can be constantly obtained during the course of hearings and other events.

To put it all into a human rights report that is already enormous in size, and whose production is a major challenge, I think is impractical. But I do think that it's very valuable, and that's why this hearing and other hearings like it are very important. We constantly look at the use of these tools, policy tools for the advancement of human rights, and the ways in which the United States is acting on the information in the reports in the way that I've done this morning.

Mr. GILMAN. There's a perception in the Congress that the State Department has been reluctant to cite nations that are gross human rights violators, in accordance with Section 502(b) of the Foreign Assistance Act. Would you comment on that?

Mr. SHATTUCK. Well, I think there are a number of governments, and I've covered them in my testimony, which are treated in large measure as violators and which deserve no support and maximum sanctions. And I think making legal findings of that may not be as valuable as treating the broadest number of countries in that fashion. I'm not sure they would all fit the category that is contemplated by Section 502(b).

In short, Mr. Chairman, I think there are probably more countries that are not given assistance; we isolate them and treat them as major violators. There are more countries that fit in that cat-

egory than there would be if there were some very formal legal finding that was made.

But I think the guidance that's provided by Section 502(b) stimulates exactly what I'm talking about here.

Mr. GILMAN. So you don't see any reluctance by the department.

Mr. SHATTUCK. No.

Mr. GILMAN. What should be the relationship between trade and human rights violations, Mr. Secretary?

Mr. SHATTUCK. Well, as I said in my testimony, we have been really at the forefront of trying to ensure that in the World Trade Organization, the connection is made between the promotion of basic worker rights and human rights and liberalization of trade throughout the world.

With respect to the general question, I think there is a significant impact on human rights in a generally affirmative way as economic growth and trade continues. But as we say in the Human Rights Report and as we've said throughout—we said it last year as well and the Secretary of State has said it—economic growth is not, in and of itself, a sufficient condition for the full flowering of human rights.

We've seen in parts of Asia, certainly in the Philippines, in South Korea and Taiwan very dramatic examples of what economic growth can do to promote democracy and human rights. But I think we also see, in the case of China, that that is not a sufficient condition for the full flowering of human rights. Clearly there are many instances in China, chronicled throughout the report, where major abuses are occurring and, as we say, in 1995 virtually all dissent was silent.

So while trade and economic growth can be useful, they are not the final answer. Political will is the final answer within particular regimes.

Mr. GILMAN. I think that that's an important aspect of it.

Do you think, Mr. Secretary, that we've been making some progress in trying to bolster the responsibilities of violating nations with regard to human rights? Have we made progress in that area?

Mr. SHATTUCK. I think if you want to take the broad view of what has happened in the world over the last say 10 years, I think there's been significant progress, progress on two levels. First, there has been practical progress in the unleashing of this broad democratic movement, which I think is what swept across the Soviet Union and area that we used to call Eastern Europe that was part of the Soviet bloc. But also in South Africa, in Cambodia, and throughout Latin America we have seen a growing movement for greater democracy, greater participation in government.

At the same time, on a second level, I think there's been progress, and that's where it gets more complicated. There's been progress because there is much more awareness of, and I would say commitment in an international context, to the advancement of human rights and more transparency in this area, so we see many abuses. We see them in a way that we never would have seen them before. We can condemn them and see them through the lens of an international growing commitment to human rights.

We've also, I think, Mr. Chairman, seen new forms of human rights violation develop in this period, as I detailed in my testi-

mony. Bosnia is the most stark example of this with the terrible crisis of ethnic religious conflict, the breakdown of State authority, and the use of cynical measures by leaders seeking to advance their own cause, to turn people against each other. These terrible abuses in Bosnia and Rwanda are certainly the most horrendous example of genocide that we've had since the Second World War.

So there's something of a paradox here. On the one hand, I think we've seen a growing movement for human rights and democracy, more advancement, and a strong U.S. commitment to leadership in this area. And, at the same time, we've been able to see the abuses more closely. We've found new forms of them, and we're beginning to address them in new ways, which is what I think our Bosnia policy and our Haiti policy are about. These policies may be controversial, but they are also very significant from a human rights perspective.

Mr. GILMAN. Well, in closing, I want to commend you for your continuing good work and I hope that you'll continue to keep this in the forefront of all of our agencies, both here and abroad. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Hyde.

Mr. HYDE. Thank you, Mr. Chairman.

I don't want to overinterpret your remarks, Mr. Shattuck, but I have a feeling that there was some support for the legislative provision to restore asylum status for these Chinese women, and I think that's a real step forward.

I was just wondering if you couldn't consider, and you don't even have to answer this, but consider releasing some of these women on bond of one kind or another who have been found by the immigration judges to have testified credibly that they are victims of the forced abortion and forced sterilization policies in China, pending final passage.

I merely suggest that because I think their continued incarceration is, as I said, a reproach to all that we believe in and promise fellow human beings.

I'm having trouble in my own mind rationalizing the difference in treatment Cuba and China get, although as a very practical matter, I'm not unsympathetic to the policy of engagement as a way to make inroads into China's traditions and culture and way of doing things.

I note in our reports we refer to China as authoritarian and Cuba as totalitarian, and we used to have many discussions over those terms a few years ago and they were ridiculed really as being definitive, but I think they are definitive. I know the difference between an authoritarian regime and a totalitarian one.

Again I'm not unsympathetic to the idea that engagement is the way to broaden their views of the world and of human nature. It just takes so Godawful long. It just takes decades and decades to penetrate. But with the communications explosion, that may be helpful.

And I understand that Cuba's a different situation, entirely different type of economy, different political dynamic. Here you're talking about a billion people. They're there. They're not going to

go away. They're important, and different tactics may be appropriate. So I'm not as critical of the difference in treatment toward Cuba as in China.

I see real problems in your field. Russia bothers me a great deal. The prime problem over there is something that calls for their handling of it and their dealing with it and, at the same time, human rights may be the first victim if they crack down as vigorously as is going to be required.

The world is on the verge of seeing the former Soviet Union transform itself into a "democracy" and that'll take a long time. I don't want it to go back. I don't want it to regress. And we hang our hat on some very slender reeds over there, Boris Yeltsin being one.

But again, that's not directly in your field but it may well be in an ancillary way, depending on which direction Russia goes. So you have a very full plate and I just commend you for the good job you're doing. Thank you.

Mr. SHATTUCK. Thank you, Mr. Hyde. If I could just comment very briefly on your Russia point. I have just returned from Russia, as has the Secretary of State. In fact, in large measure, I went to advance portions of his trip. I conducted over 8 hours of discussions with high level Russian officials in the Ministry of Foreign Affairs, Deputy Foreign Ministers, as well as my counterpart. And of course the topic was almost entirely human rights and democracy.

I have established a regular dialog that takes place every 4 to 5 months with the government of Russia. I started this dialog with my counterpart 3 years ago. My counterpart was a former prisoner of conscience in the Gulag, Slava Bachmin, who has since left the government and is now the head of the Soros Foundation in Moscow.

But the current incumbent in that position is not someone with as distinguished a human rights background and position as disident as Bachmin; and I think that speaks to some of the points that you're making.

But I will say to you that I spent a very intensive several hours discussing the issue of Chechnya, the deep concerns that we in the international community generally have about this, the difficulties of access that the International Committee for the Red Cross has had recently in getting into Chechnya, and our concern about the massive violations of rights of civilians that have occurred in that conflict, both as a result of actions by the Federal forces and by some of the guerrillas, as well.

Clearly the issue of Chechnya is a major political issue in Russia, and it is going to be an issue in the Presidential elections. I discussed many other issues as well, incidentally, going over in great detail the Human Rights Report on Russia with the Russian Government in Moscow, which is one of the—

Mr. HYDE. Yevgeny Primakov, who's the new Foreign Minister, doesn't exactly lend a lot of enthusiasm or optimism to the direction in which they may go. I say that. You don't have to.

Mr. SHATTUCK. We need very much to engage the Russians on these issues. We are working with them as a partner in Bosnia in the contact group; that's a very significant element of cooperation.

And we need to engage them and, at the same time, press them on these issues.

I would make two final points. I visited a prison in Moscow which was one of the prisons that had been used during the Stalinist period to hold and torture political prisoners before they were sent to the Gulag. It was grossly overcrowded, but I got into the prison. That was very important. It was a visit that was arranged by the Ministry of Foreign Affairs.

I also met with an extensive group of NGO's. I was impressed by the Russian NGO's because they paid much closer attention to the details of organizing civil society than had been the case back in the period right after the fall of the Soviet Union.

There's a group of mothers of sons who want to resist going to the war in Chechnya. They have now organized themselves throughout Russia. I'm told they have some 16,000 members. This is one of the paradoxical aspects of Russia. You get a growing civil society, which is clearly something that needs to be stimulated, while at the same time, some of the political trends are disturbing in terms of the approach toward human rights from the top.

But we are very much engaged with Russia. The Secretary of State, of course, has made a broader visit but raised many of the same points that I did.

Mr. SMITH. Mr. Moran.

Mr. MORAN. Thank you, Mr. Chairman.

Let me just cover two areas because my colleagues have covered a number of the areas that I'm also interested in. One, for example, is child slave labor, which I wanted to get a comment from you.

But let me ask you about the situation with regard to Kashmir first. Your Country Report says that there are 3,023 people in five detention centers in Jammu and Kashmir. You've got at least that many in unacknowledged detention centers and you've got several thousand in short-term detention.

President Clinton offered to be a mediator in that conflict between Pakistan and India, particularly with regard to the widespread human rights violations that are occurring. Have they followed up on that offer to mediate that dispute? And what do you see as any hope for the reduction of the gross human rights violation, particularly on the part of the Indian military?

Mr. SHATTUCK. Well, we've made the issue of Kashmir one of the principal focus points of our work on human rights in India. The situation continues to be very serious, as you point out. One event that occurred in 1995 that I think was very important, that had been a main focus of a lot of our work, was that access was given to Kashmir to the International Committee for the Red Cross.

We have pressed for broader NGO access, particularly for Amnesty International, Human Rights Watch, and some of the other NGO's you'll be hearing from shortly. They have been given very selective and restrictive access to India, but not yet to Kashmir.

At the same time, Indian NGO's and journalists are becoming more active on the whole issue of human rights in India, and certainly much more focussed on Kashmir than had been the case in the past.

We believe that the negotiated end to this conflict should proceed with the very active involvement obviously of both of the parties,

of India and Pakistan. The United States has taken a very aggressive role in bringing the parties together. That has been part of our diplomatic initiative in South Asia, both in Pakistan and in India.

I was the host for a meeting with the head of the Indian Human Rights Commission, Justice Ranganth Misra, when he visited the United States several months ago. The commission, while certainly not perhaps the kind of commission that we might imagine in this country, nonetheless is functioning as an important addition to the human rights landscape in India.

Of course, we've got to remember that India is the largest constitutional democracy in the world, and we believe, acting through democratic means, it is possible to address many of the human rights abuses.

But there are many and our report on India is very clear on that subject. Certainly the issue of child labor, which you have focussed on, is a major area of concern.

Mr. MORAN. Can you follow up on that last point just a bit, Mr. Shattuck? If you were in our position, what would you do, from a legislative standpoint, to address the widespread exploitation of child labor?

Mr. SHATTUCK. Well, we look forward to working with you. I know you and other members of the committee have expressed an interest in legislation in this area. We'd like very much to work with you.

South Asia, and I don't mean in any way to limit this to South Asia, an area where we have focussed a lot of attention on the child labor question. I think child labor is now a recognized problem in many of the countries in South Asia in a way that it wasn't just several years ago.

As I mentioned in my testimony, we have suspended 50 percent of Pakistan's GSP because of this. We've also negotiated a garment industry Memorandum of Understanding (MOU) on child labor with Bangladesh. And in India, we've been working on the rug mark issue. As you probably know, the rug mark is an effort to identify child labor-free products that come into the country.

These issues are discussed very extensively in our Human Rights Report but we do certainly look forward to working with the Congress on additional steps that might be taken to address the issue of child labor.

Mr. MORAN. Thank you, Mr. Shattuck.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Moran.

Some additional questions, and then we will submit a large number of questions, if we could, because we obviously can't cover every country of the world.

On the country of Guatemala, I recently visited that country, met with President Arsu, met with our Ambassador for extensive consultations and also met with most, if not all, of the major human rights organizations.

The general sense was that President Arsu had made some real progress, that he's off to a good start, in my view. The high profile cases are being looked at with an eye toward prosecution and results. He fired 8 generals and 118 police, including numerous chiefs

of police and a number of colonels, going right to the root of the problem of human rights.

My question is: What is your assessment of Guatemala? And second, is the Administration considering releasing the money for ICCITAP, the law enforcement training assistance, so that their prosecutors can hopefully get the kind of training in due process and the like that will make a difference in Guatemala becoming a rule-of-law nation?

The Ambassador was very encouraging and very supportive of the release of that money and we do have information, which I'm sure you have, as well, to that effect. Mr. Secretary?

Mr. SHATTUCK. Yes. Guatemala, as I mentioned in my testimony, has been one of the 25 or so focal point countries that are particularly of importance from a human rights standpoint. Given its record has been, in the past, very bad. And I would say in the last year it has been a mixed record.

Certainly there has been progress in some areas, given the election. The election itself, to a large extent, was major progress. I think the decommissioning of military commissioners was important. The deployment of U.N. monitors throughout the country, which is something we were very much behind, was important.

At the same time, the problem of impunity continues to be very serious in Guatemala. Other problems include constant interference with the judicial system, and the difficulty or lack of will in some instances of the police and the judicial system to effectively investigate and prosecute those responsible for human rights violations.

The Peace Process and human rights are at the forefront of the Administration's policy in Guatemala, and neither can be well served without a stable and effective judicial system.

With this in mind, the United States has committed \$5 million to assisting Guatemala through ICITAP and the USAID Judicial Sector Reform Support Project. The Project is providing training and technical assistance to strengthen Guatemala's weak judicial and investigative institutions, and help them enhance respect for the rule of law.

The Project supports the Guatemalan courts' implementation of oral trial proceedings, and helping to create a Public Defenders program by providing technical assistance, training, and materials. It is helping to facilitate the decentralization of Public Ministry functions, and improve investigative and prosecutorial capacity. It supports revision of law school curricula at the country's major law school, as well as private sector initiatives aimed at fostering a more equitable justice system.

The Project supported a legal conference a year after the introduction of the new criminal procedures code to review the progress of the law's implementation. It has supported NGO's involved in human rights defense training, and sponsored a journalism round table to explore the role of the media in development of the judicial system. It assists in hosting periodic seminars on topics pertinent to judicial development, and in publishing legal periodicals and calendars of activities. Project personnel meet regularly with the U.N. Mission in Guatemala (MINUGUA) and the U.N. Development Program (UNDP) to coordinate efforts.

Obviously we want to look very closely at any commitments that might be made to fund particular programs in Guatemala to assure that the funding is used to advance human rights. I have every reason to believe that that would be the case in the instance of the ICITAP program.

Mr. SMITH. Thank you, Mr. Secretary.

On Cuba, what steps does the United States take to ensure that Cuba will not violate human rights in preventing illegal departure pursuant to the 1994 Clinton-Castro agreement? And how many monitors do we employ to monitor the Cuban Government performance under that agreement?

Mr. SHATTUCK. Well, we have monitored through the interest section of the United States in Havana and we have kept close touch with the situation facing those who have returned to Cuba. I can't tell you precisely how many monitors but I'm sure I could give you that information in writing.

[The response follows:]

On the Joint Statement on Migration which they issued on May 2, 1995, the U.S. and Cuban Governments said they would ensure "that no action is taken against those migrants returned to Cuba as a consequence of their attempt to immigrate illegally".

Cuban compliance with this commitment is monitored by permanently assigned officers of the U.S. Interests Section in Havana and, when necessary, other Foreign Service officers assigned temporarily to the Interests Section specifically for this purpose. Teams of two monitors visit returned migrants in their homes on a regular basis. In the first year of the May 1995 accord, these monitoring teams have traveled to 44 cities and towns in 10 of Cuba's 15 provinces.

All migrants returned to Cuba are also given printed information on legal immigration to the United States and passes which they can, and do, use to visit the U.S. Interests Section at any time.

Mr. SMITH. I'd appreciate that. And also any violations of which you are aware. You may recall "mainly persuasive means" was the operative language that was used, and I know I've questioned the Administration witnesses previously, asking at what point a broken nose, for example, falls into the general parameters of "mainly persuasive"?

It raises concerns when such seemingly ambiguous language is used with regard to people who are brought back by the United States to that country. So I would appreciate—

Mr. SHATTUCK. We can get further information to you on that, as well.

[The response follows:]

As of April 26, 1996, 324 migrants had been returned to Cuba under the Joint Statement of May 2, 1995. The vast majority have not suffered Cuban Government reprisals. Most have returned to their homes and their jobs. Children have returned to their schools. All have been allowed access to Cuba's system of subsidized food rations and none has reported being denied medical care in Cuba's State health care system.

Some migrant returnees have complained of employment and housing problems and the U.S. Interests Section is seeking full information from the Cuban Government about these cases and following them closely. As of April 26, 1996, 16 of the 324 returnees were in prison, but on charges unrelated to their attempts to leave Cuba, mostly common crimes including murder, robbery, and drug trafficking. A few others have served prison sentences since their return, again on charges unrelated to their attempts to leave Cuba, and been released. Monitors make regular visits to the families of imprisoned returnees and the Interests Section seeks full information from the Cuban Government about these cases.

Mr. SMITH. Thank you, Mr. Secretary.

On Vietnam, several years ago when Secretary Brown appeared here, I asked him point blank as to whether or not human rights and resolution of the POW-MIA issue was linked in negotiations with the government of Vietnam on steps toward normalizing relations, including the economic relationship, and he said no, there was no connection.

My question is: In your view, should the government of Vietnam's record on human rights, especially its mistreatment of people who believe in God, its persecution of religion, affect the character of U.S. diplomatic and trade relations with Vietnam?

Mr. SHATTUCK. The answer is yes, Mr. Chairman. I think this has been made very clear in all of our dealings with the government of Vietnam, including Secretary Christopher's visit last fall and the four human rights dialogs that have taken place. We've made a very important condition of continuing toward the process of normalization the pursuit of human rights improvements in Vietnam.

I would note here for the record—you probably do know this—as a result of our efforts, we have secured the release recently of several political prisoners, particularly Nguyen Tan Tri and Tran Quang Liem, and then also recently, on February 8, Doan Thanh Liem. All of these cases were pursued directly by myself and my bureau and then by the Secretary of State when he was in Vietnam.

We have continued to raise serious concerns about the treatment of Buddhist monks and the Unified Buddhist Church of Vietnam and restrictions on the activities of the Catholic and Protestant Churches. These are very high on the agenda of our dialog with Vietnam. And normalization has afforded new channels through which we can advance human rights. But clearly the full flowering of the relationship between the United States and Vietnam will, as it does in many countries, depend on continued progress on the human rights front.

Mr. SMITH. Let me ask you, Mr. Secretary, why does the report devote so little attention to Vietnam's repressive population control program, which is really a page out of China's? Its two-child-per-couple policy has been written up extensively—though not as extensively as China's—by some human rights monitors and journalists.

Mr. SHATTUCK. Well, our reports can always be improved. There's no question about that. In fact, we're open for business 364 days out of the year to receive information that might go into the next year report. We'll certainly look at this very closely.

We receive regular information from our friends in the NGO community. You probably know that at least two NGO's put out a formal public critique of the report, which we very much welcome because it gives us information we can use in the following year. Certainly that would be the case with respect to any information that might be included in the Vietnam report.

Mr. SMITH. Mr. Secretary, Holly Burkhalter, the Washington director of Human Rights Watch who, during my 16 years as a Member of Congress, has been before our committee and has a tremendous amount of credibility, particularly relating to Central and South America, but also relating to situations around the world,

she, in her testimony on page 9, points out that, on Turkey, the Human Rights Report is excellent, but it's being used as an excuse to send the Cobras. She points out that it gives the Administration the license to approve the sale of weapons known to have been used in perpetrating abuse.

She goes on in her testimony to talk about some of that abuse that they chronicled last year, in 1994.

How do you respond to those criticisms? I'm sure they're not new. They picketed recently, at the State Department, the sale of those Cobras to Turkey because of how they've been used against the Kurds.

As a matter of fact, in an exchange with the press on March 14 regarding a demonstration organized by Amnesty outside the State Department, a State Department spokesman was asked about the Cobra sale in the context of human rights. His answer was, "Well, on the human rights problem I have a wonderful standby, which is the Human Rights Report. That's right, that we just released.

"And it goes into some detail, including detailing our concern about the Turkish Government's actions vis-a-vis the Kurds. I mean, it's all there. I can't improve on a year's worth of effort on the part of my colleagues in the field and in Washington."

And as she points out, that is then used for the sale. I mean, it seems you've got it backwards.

Mr. SHATTUCK. Well, I haven't seen Holly's testimony and I'm sure she will be eloquent, as always, when she appears before you. I find it hard to understand how it is that the Human Rights Report could be used to justify anything that's specifically going to be violating human rights.

And I testified earlier that my bureau and the State Department generally take very seriously the obligation to review all arms sales to Turkey and other countries that might be used to violate human rights.

We did issue a report last year which I'm very proud of, that honestly and clearly chronicled the use of arms in Turkey in ways that could violate human rights, particularly among civilians in the southeast. And the issue of any additional arms sale will receive very close, careful human rights scrutiny. And the position of the Assistant Secretary for Democracy, Human Rights and Labor, which was specified by statute in this area, provides the Secretary of State with very clear and strong advice about the human rights implications of any particular arms sale.

Mr. SMITH. Did you agree with the previous arms sale?

Mr. SHATTUCK. Which previous arms sale?

Mr. SMITH. The sale of Cobras in the past. Do you think it was—

Mr. SHATTUCK. There has been no sale of Cobras to Turkey during the period of time that I've been Assistant Secretary of State.

Mr. SMITH. What about the ground-to-ground missiles? Did you agree with that?

Mr. SHATTUCK. The so-called Attack'ems? Yes, I did agree with that, as a matter of fact, because I apply in each instance a very clear human rights standard. And in that case these were weapons mandated by the NATO policy. They're one million a shot and

they're used to penetrate armor, very large armored vehicles. They are not anti-personnel weapons.

I very strongly advised against the sale of anti-personnel bombs, which I think could violate human rights. There's been no advance on this sale.

Mr. SMITH. Have you advised the secretary on the sale of the Cobras, the Super Cobra?

Mr. SHATTUCK. Well, I'm not going to discuss specific things that I've been telling the Secretary of State, but I give you my commitment, Mr. Chairman, that I have given very clear advice to the Secretary on human rights issues with respect to this and other arms sales, yes.

Mr. SMITH. When do you think that could be made public, as to what your advice is?

Mr. SHATTUCK. I don't think it will be made public, Mr. Chairman. My advice to the Secretary of State is advice to the Secretary of State.

Mr. SMITH. But you will not give us an opinion as to whether or not you thought there were human rights implications for that sale, since there has been documented evidence that they've been used in the past and now we're talking about additional attack helicopters? I know their capabilities. One of my brothers is a Cobra pilot, so I know what they can do.

Mr. SHATTUCK. Well, I think the record speaks very clearly for itself. I am referring to the record of the report that we have prepared, the information that we provided to the Congress, and the implications for human rights of Cobra helicopters in that area. But I'm not going to impinge on the relationship that I have with the Secretary of State to provide you with specific information and advice that I've given to him.

Mr. SMITH. But we need your advice, as well. You are the point man for human rights in the Clinton administration. We'd like to know—as chairman of this subcommittee, I'd like to know—what your reasoned opinion is, because we value it, I value it, as to whether or not that sale will be injurious to human rights in Turkey, especially as it relates to the Kurds, or whether it is moot, a non-issue.

Mr. SHATTUCK. Well, I have provided information to the Congress that is very clear on what those Cobra helicopters have been used to do in the past and I think that is the kind of information that you can certainly rely on in any judgments that you might make.

Mr. SMITH. Thank you, Mr. Secretary.

Nina Shea raises two problems on the issue of religious persecution that I'd like to raise right now. She says, "Two general problems arise in the State Department's coverage of religion. First, the Country Reports in some cases do not adequately distinguish among the various Christian denominations in a particular country but, instead, generalize the experience of the dominant religious group that usually has the most freedom.

"Second, the Country Reports in some important instances also fail to address the role of society in persecuting religious minorities, concentrating instead on active government involvement in religious intolerance while ignoring the government's own passive

role in the face of societal terror." And Pakistan is cited in this second instance as a place where the Islamic fanatics are incited, in an almost vigilante-type way, to take the law into their own hands, particularly in the realm of blasphemy laws. We've heard testimony on that in this subcommittee.

We've also heard how this is being done with regard to anti-semitism in Russia, where the government turns a deaf ear and a blind eye to the rising tide of anti-semitism. As one of our witnesses put it, anti-semitism is becoming privatized, with the full acquiescence, it seems, of the government. How do you respond to those two criticisms?

Mr. SHATTUCK. We've made religious intolerance and freedom of religion one of the central focus points not only of our reports but of our work in many countries throughout the world.

We have also engaged, over the last year, with a large number of religious organizations and NGO's interested in this field to review the whole issue of religious intolerance, and I think the Administration will be very soon announcing new steps that it plans to take in this area.

You mentioned the blasphemy laws in Pakistan. That's one of the areas where we've spent a great deal of attention on the issue of the use of these horrendous mechanisms to violate basic and fundamental freedom of religion.

This is certainly not the full answer to the problem but a great deal more due process has been built into these laws, which themselves are fundamentally violations of human rights. And, as a result, I think we have seen far fewer prosecutions and punishments of people under the blasphemy laws over the last year.

This is not—I want to be very clear—this is not the answer to the problem, but it's an example of what we're trying to do.

We are working with the OSCE, which is going to have a conference next month on April 16 to 19 on freedom of religion and the role of the State. This is something that the United States is the primary mover behind.

We also will be working at the U.N. Human Rights Commission to develop a resolution on religious intolerance, which will be adopted next month.

So the issue of freedom of religion or religious intolerance is a major focal point. Clearly it's woven throughout all of our concerns with the terrible ethnic, religious and racial conflicts that have emerged in the recent period. I know you share our concerns, Mr. Chairman. I think Bosnia is the most powerful example of what can happen when fundamental religious intolerance moves into the area of violence, and ultimately even genocide. That, of course, is the ultimate result that occurred in Germany, as well. That is why the issue of anti-semitism is such a powerful concern for human rights worldwide, and why it is reflected in our reports.

Mr. SMITH. Mr. Secretary, just this month, and it was really too late for inclusion in the 1995 Country Reports, there had been some allegations by Vietnamese asylum seekers from the Sungai Besi camp that Malaysian guards participating in the comprehensive plan of action, which, as you know, is partly funded by the United States and certainly it's supervised by the UNHCR, had engaged in systematic sexual abuse of women, as well as beatings of

men, in order to exert pressure for what they call voluntary repatriation to Vietnam.

Has our embassy in Malaysia investigated these allegations?

Mr. SHATTUCK. I cannot give you as clear an answer as I'd like to, except that I'm aware of those allegations and I'm certain that our embassy has looked into them.

Let me say more generally about the whole repatriation issue and the importance of reviewing all claims for individuals who are to be repatriated to Vietnam in an additional round of review. With respect to Hmong refugees now in Thailand whose concerns about returning are particularly severe, I am pleased to announce that we have negotiated with the Thai Government full access to the Hmong refugees. We will be able to review their cases, once again, on an individual basis.

Mr. SMITH. I appreciate that and that's very encouraging. As you know, this subcommittee has taken that issue to heart. My predecessor, Howard Berman, was very concerned about that issue, as well. And there's language in the conference report that would deny funding for forcible repatriation and actually affirms the track 2 approach of the Administration as a viable option. My hope is that every one of those people do get that interview because, otherwise, we might be complicit in sending true refugees back to Vietnam. So I welcome that news.

Mr. SHATTUCK. Let me also say, Mr. Chairman, that when they are back in Vietnam we will continue to very closely monitor the situation and give them every opportunity to apply for asylum or other refugee status that they might require once they're in Vietnam. So we're watching this very closely.

Mr. SMITH. Thank you. I'll just ask two final short questions and submit any remaining questions for the record. We had a hearing in this subcommittee just a few days ago on rogue regimes and their attempts to influence U.S. policy and U.S. elections. Probably the most blatant alleged case of this is Louis Farrakhan and his most recent World Friendship Tour, which took him to some of the most reprehensible capitals in the world—leading from the Sudan to Khartoum to meetings in Tripoli to meeting with Rafsanjani in Iran and promises from Qaddafi of upwards of a billion dollars, which seemingly now has been reneged, but we don't know where that stands.

First, what is your view and your take on Farrakhan's trip, and second, what is the Administration doing about it? We had invited the Administration to appear and perhaps it was a scheduling problem but we wanted to hear what the Administration was doing to aggressively enforce the law. Whether it be Farrakhan or anybody else, nobody is above the law. And when you're talking about such huge amounts of money, the potential for disaster, I think, is very real. Mr. Secretary.

Mr. SHATTUCK. Well, Mr. Chairman, I don't think as a human rights officer I'm going to comment here on the travel of a private U.S. citizen, except to observe, as you do, that the travel in question was in many ways very counterproductive from a human rights standpoint.

From a law enforcement standpoint, I'll leave that to the judgment of others. I would note one of the basic elements of human

rights, of course, is freedom to travel, and we should always be aware of that basic right as we weigh it against anything else that we might seek to do.

Mr. SMITH. But as you know, there are restrictions on even private citizens going to certain capitals because of—

Mr. SHATTUCK. I understand. That's why I'm going to leave this to the judgment of law enforcement officials. But I did tell you that—

Mr. SMITH. Are you in the loop at all? These are probably the most egregious violators of human rights in the world and it seems to me that as, again, chief human rights officer, there's certainly a place for you at the table.

Mr. SHATTUCK. We are well aware of the situation involving the effort to manipulate private U.S. citizens to advance the cause of rogue human rights regimes, yes, and we are being consulted on that.

Mr. SMITH. If you could, for the record, provide a more detailed response, I would appreciate it because I do think it's a place for your office to be more involved. I'll be absolutely candid and transparent with you—our concern is that political consequences in the upcoming election may influence the Administration from taking action on this. And my hope is that all of that will be laid aside for the common good and the public good, no matter how it cuts. This kind of thing cannot be tolerated.

If, indeed, those kinds of promises are real and laws were broken, they need to be enforced.

One final question. You and I both, I think, have a very strong concern about Wei Jingsheng. What is the Administration doing concretely to try to spring him loose from his unjust incarceration?

Mr. SHATTUCK. Well, Wei Jingsheng and his case have been at the forefront of all of our public and private statements about the human rights situation in China. As we say in the report, the treatment of Wei Jingsheng, with an utter lack of due process and an horrendous sentence far beyond anything that was expected, is an indication of where the treatment of political dissent is right now in China.

This is one of the reasons why we are very aggressively pursuing again a strong resolution on the human rights situation in China at the U.N. Human Rights Commission. This is also one of the topics that is raised in our discussions with China.

I think I'll be equally candid with you right now, Mr. Chairman. Of course you know that right now the discussions with China are very much clouded by a lot of issues where there is a great deal of tension and difficulty, but the clarity with which we have presented our concerns publicly and privately regarding Wei Jingsheng is something I'm very proud of.

I'm very, very distraught by the way in which this outstanding activist for human rights and democracy, perhaps in many ways the symbol of the struggle for human rights in China, is being treated.

Mr. SMITH. Has anybody from our embassy been allowed to visit with him, or attempted to visit with him?

Mr. SHATTUCK. I'm not certain of that.

Mr. SMITH. If you could let us know whether or not an attempt was made and whether or not it succeeded.

Mr. SHATTUCK. Of course. I would be pleased to do that.

[The response follows:]

The Chinese authorities do not permit foreigners to meet with any imprisoned dissidents. The only exceptions have been cases involving foreign passport holders, and then meetings are held to access required under international obligations set forth in the consular convention.

We have not met with Wei Jingsheng since he was redetained in April 1994. We attempted to attend his trial on December 13, 1995, but were denied permission to enter the court building. We have no legal basis for demanding access to Wei, and there are other considerations.

We have not tried to visit Wei in prison since his sentencing for fear of complicating his situation. His family has, however, visited him, although we understand that recently even family members have encountered obstacles in arranging visits. His brother is among the most surveilled people in Beijing. Under Secretary Tarnoff, and Assistant Secretaries Lord and Shattuck met with Wei Shanshan, Wei's sister, when she was in Washington last December. Wei's sister met recently with the German and Canadian Foreign Ministers.

We do monitor the situation. And we will continue to do so.

Mr. SMITH. I would be remiss if I didn't add this final question on Mauritania and the Sudan. We had a joint hearing with the African Subcommittee, at which time we looked at the on-going problem of slavery and chattel slavery in those two countries.

And while we had a representative, a former Congressman, pleading the government's case from Mauritania, we heard from a number of very reputable people from the anti-slavery movement who took the Administration to task for asserting that the remaining problems are just the vestiges of slavery. It is still a very real problem that should not be swept under the table. Scant attention is paid to the fact that in the Sudan the religious minority in the south are being cruelly victimized by this chattel slavery. How do you respond to that?

Mr. SHATTUCK. Well, the issue of slavery in Mauritania is one that has been clearly chronicled by us in our report and is one of the terrible vestiges of the past, which has continued. I met with the Mauritanian Government last September, made very clear that we expect this to end before we eliminate our opposition to MDP loans and we, of course, have terminated IMET programs; we've terminated GSP. We have a very strong set of tools that are being used to pressure Mauritania to change the situation.

We think there has been some progress. Slavery certainly is significantly reduced, but any slavery is totally unacceptable.

I am pleased that Freedom House—I believe they're testifying here this morning and they can affirm this to you—has recently been given the right to travel to Mauritania to conduct a human rights mission in Mauritania at their request. But this is a topic that we are pressing very hard on the government to fully and finally eliminate all vestiges of slavery.

Mr. SMITH. You know, the Country Reports appear to have downgraded the problem in comparison with the 1993 and previous years. For example, the 1993 report cites credible reports that between 30,000 and 90,000 people are living in slavery. It specifically said that these reports were about "individuals forcibly held against their will".

But the 1994 report said that 30,000 to 90,000 individuals were not really slaves, just people "living in the legacy of slavery, particularly in its economic and psychological manifestations".

The 1995 report is even softer than the soft 1994 report. It just drops the statistics and says that "Reports of involuntary servitude are rare and unconfirmed."

These were the kinds of issues that were raised during that hearing. There seems to be a downplaying. At first, the report seemed a straight-shooter by detailing the 90,000, upwards of 90,000, caught in slavery. Then it changed the story to say that they were just caught in the web, the legacy of slavery. They just couldn't get out of it, because they went back to their "masters". And now it's to the point where it's not an issue, or is almost no issue. And our witnesses took that portrayal to task, big time, at the hearing. That's why I raise it.

Mr. SHATTUCK. The situation involves certainly tens of thousands of persons whose ancestors were slaves and who still are living in positions which are coercive and where commerce in those individuals may continue. The specific slavery, that is ownership and chattel relationship, may be quite different from what it was in the past.

But clearly I think what's very clear, Mr. Chairman, from our policy toward Mauritania, which is the termination of IMET, termination of GSP, termination of most forms of assistance except basically assistance to UNHCR in resettling refugees, is that we are very unhappy with the human rights record of Mauritania and the treatment of people who are living in the shadow and vestige of slavery is one of those areas.

Mr. SMITH. I'd asked former Congressman Dymally, who was there representing the government, if he had learned anything, having heard from a noted African American journalist and other leaders of the anti-slavery movement and he said yes, that he was going to take that information back.

I would hope that you would review the data that was provided at that hearing, and any other ancillary information you can pick up, because it seems to me that it's being downgraded. Yes, we're raising human rights issues, but the report is on a glide slope toward saying the problem is just the vestiges of the problem, and that the government is really trying to get rid of it. The evidence seems to contradict that.

Thank you very much, Mr. Secretary. I do thank you for your testimony.

Mr. SHATTUCK. Thank you.

Mr. SMITH. I'd like to ask the second panel if they'd proceed to the witness table. Holly Burkhalter is the director of Advocacy for Human Rights Watch, a private human rights research and monitoring organization, and a former staff member of the House Foreign Affairs Subcommittee on Human Rights and International Organizations. She is a frequent witness before Congress and publishes articles and opinion pieces regularly, including a quarterly column on human rights law and policy in *Legal Times*.

Michael Posner is our next witness. Since 1978, Michael has been the executive director of the Lawyers Committee for Human Rights, a public interest law center which undertakes foreign mis-

sions, publishes human rights reports and litigates on behalf of applicants for political asylum. Mr. Posner has represented the Lawyers Committee at the U.N. General Assembly and its Commission on Human Rights and at the Organization of American States and its Inter-American Commission.

Nina Shea has been an international lawyer for 17 years and is the current director of Freedom House's Puebla Program on Religious Freedom. Ms. Shea helped to begin the Puebla Program independently in 1986 and recently oversaw its merger with Freedom House in 1995. She has organized or participated in human rights fact-finding missions in many countries, including Chile, El Salvador, Cuba, Haiti, Nicaragua, Sudan, Chile, and Nepal.

Patricia Rengel is currently the chief legislative counsel and acting director of Amnesty International USA. While in law school at Georgetown and since graduating, Ms. Rengel has worked as a human rights lobbyist, first with the U.S. Catholic Conference and later with Amnesty itself. She was awarded the Georgetown University Bicentennial Medal as a Public Interest Scholar in 1990 in recognition of her fine work in the field of human rights.

Holly, if you could begin the testimony.

**STATEMENT OF HOLLY J. BURKHALTER, WASHINGTON
DIRECTOR, HUMAN RIGHTS WATCH**

Ms. BURKHALTER. Thank you, Chairman Smith, for your warm welcome. I appreciated this hearing very much indeed. It's been most edifying.

I'm going to, in the short time allotted to me, look at a couple of problems in the State Department Country Reports but in so doing I would be remiss if I didn't start by saying they are the exception rather than the rule. They are not typical of this year's document or previous year's documents, which have, we believe, been increasing in their excellence with every passing year. It has been a trend, really, over the last two Administrations.

By pointing out areas where we think they could be improved, we do so to try to come up with strategies to help do that, not to suggest that the problems are characteristic of them.

Having said that, I would point to one report that was so bad this year that if indeed there was a task force at the U.S. embassy in this country, a seasoned human rights hand was not at the table. That report is, to my great surprise, Rwanda, a country which was the center of our attention for most of the past 2 years, since the genocide of April through June 1994. Human rights continue to be problematic in that country, though of course there has been no repetition of the worst event that can occur in the human experience, which is genocide.

For some reason the State Department Country Report on Rwanda manages to miss altogether a discussion of a massacre of 110 people by army troops, where there was no military activity going on whatsoever. The Kibeho massacre, which was the most important human rights event of the year, in which something on the order of 8,000 civilians, mostly women and children, were slaughtered by army troops was downgraded to several hundred victims, a figure no one uses except the Rwandan Government, a completely discredited figure.

The report misses altogether the most important political assassination of the year, the prefect of Butare, who is a key moderate Hutu leader in Rwanda, who was assassinated, along with his son and someone accompanying him. It was witnessed by his bodyguard. Police in Rwanda have not investigated the crime. And this person who died is not an ordinary victim. He was the top moderate adviser to the former Prime Minister Agathe Uwilingiyimana, who had died in the genocide, as you remember. The report doesn't even mention his death, which was a terrible event in terms of prospects for ethnic tolerance in that country.

And then finally, another important human rights event of the year, which was the departure from the government of the key human rights figures and monitors. Prime Minister Twagiramungu, Justice Minister Nkubito, Seth Sendashonga, the Interior Minister, and two other Cabinet members, all of who were associated with a more positive human rights approach, departed, and the reason they departed the government was because of army violations.

That was described in half of a sentence as a Cabinet reshuffle, which is a very poor way to characterize the seminal event of the year.

Now, I dwell on this because I think it suggests that whereas most reports caught the major human rights events and nailed them down fairly accurately and with detail, this one missed almost all of them in one way or another.

The recommendation I draw from that, for this report and for others, is that the State Department might consider having some kind of an informal vetting process for some of the reports. Certainly we shouldn't ask them to submit their reports to our consideration or anybody else's in advance of publication. We don't do that at Human Rights Watch. I would not ask others to do the same.

However, my organization and the others represented at this table do publish regular reports. At a minimum, somebody in the embassy or here at the State Department ought to be looking at our reports just to make sure that if you're going to leave out an event, you know why you're doing so.

Alternatively, if there is a respectable and professional human rights community in the country in question, invite them in before the report is finalized. You don't have to give them copies, but go through the major events, ask about numbers, exchange views. I think this happens on a regular basis in many embassies, but it's not an integrated part of the process, and it really showed in that very important case.

A second report I'll point to for a different reason, and it's the report on Russia, which was well done. It had an unblinking characterization in particular of the Chechan conflict and said quite precisely that the Russian military engaged in indiscriminate attacks on civilians, causing thousands of deaths.

Our problem here in this case has been articulated by some of the members; even where the Administration has been extremely active on human rights in many countries and engages in a dialog on human rights with Russia, the Russians are not hearing that dialog and they have no reason to hear that dialog because even

while good folk like Secretary Shattuck are raising human rights concerns, such as carpet bombing in Chechnya, Mr. Shattuck's colleagues over at the Treasury Department are working overtime to get two unprecedentedly large IMF loans to the Russians. The loans were granted 2 years in a row at the height of slaughter of civilians, last April and then again just last month. It appears that even the IMF's own rigorous economic standards were waived in order to hustle a very large chunk of money to the Yeltsin regime. No wonder we're not getting his attention when we engage in a human rights dialog.

The third report I would highlight just very briefly is Turkey because others have done it for me. It was a good report and I think there is some strong policy work being done on Turkey. But John Shattuck and his staff did not work overtime to get out a good report on Turkey only to have it referred to in public at the demonstrations sponsored by my colleagues at Amnesty International on the Cobra sale, as a "wonderful standby".

In other words, the report is the human rights piece of the policy; the Cobra sales is something else. I actually don't believe that's the case. The Cobra sale is indeed up for consideration and it is hotly contested within the Administration. Attention to it at this hearing is certainly helpful to those that would like to stop it.

Again, there are several things that might improve not only the quality of the reports themselves but the uses to which they're put. I've described some of them, the informal vetting process that, I think, goes on in some cases, though not all.

I think that there needs to be high level strategy sessions before and after the reports come out. It could include some of the NGO's informally or formally, but it definitely needs to include State Department counterparts at the Defense Department, the Commerce Department, the Treasury Department and elsewhere in the bureaucracy because we've seen in many cases what the Human Rights Bureau is saying and what the embassies are saying in the Country Reports is not echoed by their counterparts elsewhere.

Finally, I would just conclude these remarks very quickly by saying that it was a good year and a bad year for human rights, as you've heard. It was a good year because you found the international community scrambling to try to put together multilateral efforts to help the victims and monitor the abuses. It was a bad year because, in my view, the events at Srebrenica last summer, where persons under U.N. protection, thousands of them, were led away to be slaughtered, in full view of the U.N. troops and the U.N. monitors, also shows the limits, under the present configuration, of such efforts.

But one thing I think is very clear, that the United States has played a significant and useful and important, essential role in working up international strategies to protect human rights, whether it's human rights monitors in Bosnia, whether it's a peace treaty that includes U.N. human rights mechanisms, whether it's leading the charge at the U.N. Human Rights Commission on China.

But in some areas we're leading the charge and what we really need to do is throw some money at the problem. That brings the responsibility back here to this body, where people like yourself are

strong proponents of providing adequate funding for some of these human rights mechanisms, but the money just isn't adequate.

I'll just close with one example, again from Central Africa, which is an area where I have a particular concern. To our great delight, the Security Council authorized a commission of inquiry for Burundi, to look into the assassination of Prime Minister Entidiya which set off a chain of ethnic killings by the Tutsi-controlled army, as well as by Hutu militia groups, that have continued to this day. There were at least 10,000 people killed last year in Burundi.

A commission of inquiry by the Security Council to look into those assassinations, which we know, for a fact, were done by the Tutsi-controlled Burundian army, would be a very significant way to bolster the civilian authority, who basically operate under the thumb of the military. And that commission of inquiry is not working and it's not doing its job for want of a couple of million bucks. The money just isn't there. It just hasn't been provided.

I don't know whether the United States has yet provided any or not. The last time I checked, we had not. We have been the key donor in most of these enterprises and I suspect we will be for Burundi, as well, but we have to be. You know, this government has to be the key donor and we're not going to be able to encourage our allies to join us unless we continue to do that.

The United Nations is a badly flawed institution but it's the only one we've got and I'm a strong supporter of making those human rights mechanisms work. In order to do so, we're going to have to fund them. Thanks very much.

[The prepared statement of Ms. Burkhalter appears in the appendix.]

Mr. SMITH. Thank you very much, Ms. Burkhalter.
Ms. Rengel.

STATEMENT OF PATRICIA L. RENGEL, ACTING DIRECTOR, AMNESTY INTERNATIONAL U.S.A.

Ms. RENGEL. Thank you, Mr. Chairman, for inviting Amnesty to testify. We're pleased to be before the subcommittee once again and are very pleased with the thrust of your remarks and questions to Mr. Shattuck, that is, going to the disjunction between what is reported in the Human Rights Reports and the actions that are taken by the Administration.

We would agree with what Holly said in general about the character of the reports. They certainly have improved over the years and our focus on, in a sense, what's missing in the reports is not taken as a general criticism of the reports but rather as an exception to what's generally a very comprehensive and good reporting system.

Focussing on the issue of disjunction between action and reporting is one area that I want to look at, and also I'd like to focus some attention on the very important issue of impunity; that is, the failure of governments to bring perpetrators to justice, and the need for the United States to take action to change this fundamental obstacle to improvement in human rights protection.

The first instance of this disjunction between reporting and action that I would like to focus on is one that Secretary of State

Shattuck himself focussed a great deal of attention on, that's the reporting in Bosnia and the development of the Dayton Accords to resolve the conflict in that region. What I would like to focus on is what's missing in the Dayton Accords.

In the reporting on Bosnia, there is a great deal of attention, and this is both in the State Department reports and in general reporting on Bosnia, a great deal of attention to the issue and the visibility of violations against women. Yet we find in the Dayton Accords that women are virtually invisible, and I would like to focus some attention on that.

They were negotiated, these Dayton Accords, over a 3-week period in November with participation by U.S. Government officials, including Mr. Shattuck, and he is to be commended for his role in ensuring that the human rights dimensions of the accords, in fact, exist at all.

But we're also reminded that the Dayton Accords occurred just 2 months after the Fourth World Conference on Women, where again there was a great deal of attention focussed on the issue of violence against women. And so we ask, why are women invisible in the Dayton Accords?

In the Country Reports, there is specific reference made to reports of rape, not only citing individual cases but also stating that "they", referring to the Serbs, "employed rape as a tool of war" and that "Serb forces routinely used rape to accelerate the process of ethnic cleansing."

We see here a situation where the reporting says there weren't only individual cases of rape but actually that it had become a policy of some of the elements in that conflict. And the Dayton Accords address at great length the resolution of that conflict and the restructuring of the Republic of Bosnia and Hercegovina. One would have expected some aspect of those accords to focus attention on this particular issue.

It's not that the accords do not include some specific references; they do. For instance, the preamble to the constitution refers to the Declaration on Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities, but there's no reference to a similar-sourced declaration from the United Nations on the elimination of violence against women. This is just one aspect where the accords are missing something.

There is no reference, for instance, in establishing the human rights chamber or the ombudsman that Mr. Shattuck referred to and which the Dayton Accords cover, no reference that the staffs of those bodies should have any competence whatsoever specifically in dealing with the issues of human rights violations against women. And yet in dealing with the refugee commission, the Dayton Accords are very specific in the experience that the staff ought to have. This particular commission focusses specifically on property rights and the accords note that the staff should be experienced in administrative, financial, banking and legal matters.

So my point is the accords have a certain degree of specificity to them, when it comes to property rights, when it comes to religious or ethnic minorities; but when it comes to women, we aren't there.

So we think that that's a very serious matter, particularly in the area of refugees, when some 2 million out of the 2.7 million refugees, are women and girl children.

The failure of the United States and other governments in the Dayton Accords to address the issue of violence against women prompted a group of nongovernmental organizations to write to Ambassador Madeleine Albright. Included in the letter to Ambassador Albright is an annex of detailed questions that attempt to compensate for what is missing in the Dayton Accords. I would ask that that letter and annex be included with my testimony in the record of these hearings.

Mr. SMITH. Without objection, all the testimony and any documentation you would like to have included will be so included.

[The materials submitted for the record appear in the appendix.]

Ms. RENGEL. Thank you, Mr. Chairman.

We also ask the support of this subcommittee, once you have had time to review the issues that I've raised here, your support in monitoring the implementation of the Dayton Accords to ensure that issues affecting women victims of violations in Bosnia are addressed appropriately.

I would like to go on to comment generally on reporting on violations against women in the Country Reports. The Country Reports include, in Section 5, reporting on discrimination on the basis of sex as one of several categories of discrimination dealt with in the section. But as Secretary Shattuck said, one of the—although he twisted it just a tad—one of the purposes of the Fourth World Conference on Women was to ensure that women are mainstreamed in considerations of human rights and other aspects of society.

Mr. Shattuck said that it affirmed that women are mainstreamed. They are not mainstreamed, and the assumption cannot be that in human rights reporting women will be included. The record is that they have not been included.

We feel that the Country Reports, although they have been improving in the area of reporting on human rights violations against women, still reflect areas of serious underreporting. We are recommending to remedy this situation, particularly instances of violation against women in custody, that there be specific training provided to embassy officials on how to assess and gather information on gender-specific human rights abuses. Embassy officials will only report on what they have been trained to assess as a human rights violation. They must receive training on how to assess gender-specific violations.

They must also receive training on how to gather information in this area because it may involve going beyond the traditional sources of information to those groups and/or individuals in the country who are looking specifically at what is happening to women.

Further, those who assess the quality and comprehensiveness of the reports from the field must be trained to ask the question, what is missing?

And perhaps I would second what Holly Burkhalter has said about an informal vetting to assist them in this process of determining what is missing.

I will not further elaborate on the disjunction between the policy and action on Turkey because you have mentioned it yourself; you have raised the issue of the Cobra helicopters, which we certainly appreciate and affirm. This is one of the few instances where Amnesty International has called for the cessation of and an end to all sales or transfers of military helicopters because of the reporting and the evidence that they, in fact, are used to commit serious human rights violations.

We feel that the Congress should do all that it can to halt the proposed sale of these helicopters, which would show both Turkey and the executive branch that human rights are a fundamental cornerstone of U.S. foreign policy, not just the subject matter of a book to be printed once a year and gather dust on a shelf.

Russia and Chechnya have been brought up. I would like to commend the reporting on Russia and the Chechan situation without elaborating further on that. We feel that while it's very important to report on violations committed by Chechan forces, which the State Department has done, it is also important to point out as the Country Reports do that the violations committed by the Russian military occurred on a much greater scale.

And while it is crucial to report on Chechan violations, there is the need to avoid equating the violations on each side when the scale is so grossly slanted toward the Russians. We feel the report succeeds in avoiding that particular equation.

I would focus, then, rather quickly on the issue of impunity, which we have indicated is one of the major obstacles to improvement in human rights violations. We feel that it goes to the heart of efforts to eradicate those violations. There must be full accountability in order for there to be a full court press against such violations.

And yet impunity seems to be the norm rather than the exception. Even when one reads the State Department reports, it is obvious that impunity again and again and again is cited as a major obstacle.

Certainly on the international level, the establishment of the Criminal Tribunals for Rwanda and Yugoslavia are very, very important first steps. With all the difficulties that these tribunals face, it is still encouraging that they exist and under the effective leadership of Justice Richard Goldstone, have begun to operate.

We feel that it is very important that the United States continue to support the work of these War Crimes Tribunals, both financially and politically, particularly as the transition is made from the leadership of Justice Richard Goldstone to his successor.

We would also point out as an encouraging development the work within the United Nations to establish a permanent international criminal court. This effort seems to have taken on new life and, in Amnesty International's view, the world needs a just, fair and effective international criminal court as soon as possible. We encourage the U.S. Government to work closely with other governments to see that such an institution, in fact, is established.

But we feel it's also very important for the U.S. Government to press governments to prosecute human rights violations within their own borders. Again and again, the Country Reports, as I've

mentioned, have made clear that perpetrators of violations are generally not brought to account by their governments.

However, there's also collusion among foreign policymakers in the U.S. Government who encourage or accept grants of amnesty for human rights violators for the sake of resolution of current conflicts. We feel this policy is short-sighted, at best.

There is also a too readily given welcome to the establishment of national commissions for human rights or commissions of inquiry without examination of whether these institutions are simply a facade, masking the reality of inaction. The result when that is the case is that perpetrators have little need to fear of ever paying for their crimes.

We focus a bit on impunity in the Mexican situation in our written testimony but I would like specifically now to focus on Colombia. The report on Colombia includes a statement by the State Department which obviously agrees with the assessment of most human rights organizations that the situation in Colombia is critical and that "Rampant impunity is the core of the country's human rights violations."

The question is what is the U.S. Government willing to do about it? In our view, one action the United States could take would be to propose a resolution at the current U.N. Human Rights Commission meeting that a special rapporteur be appointed for Colombia. We have written and spoken with Secretary Shattuck about that and would like that letter, which somewhat details our case, to be included in the record as well, Mr. Chairman.

Mr. SMITH. Without objection.

[Materials submitted for the record appear in the appendix.]

Ms. RENGEL. Finally in conclusion, I will again make some of the recommendations that we made last year and which you were kind enough to include in your remarks, recommendations that the Country Reports not only report on human rights violations but also summarize major initiatives by the U.S. Government to prevent the violations it documents.

We recognize that the reports are lengthy documents but we feel this connection between reporting and action is an important connection to be made and should be a part of the document.

We also feel that the report should summarize the response of offending governments to the Country Reports and to major multilateral and bilateral initiatives: Have they been responsive? Have they not been responsive? Have they been intransigent?

And finally, not to belabor the point, that the reports should be used as a basis of action by both the Congress and the Administration, and we would focus this year particularly on the areas of impunity and repeat our recommendations with regard to the reporting on violations against women.

Thank you, Mr. Chairman, for once again inviting us.

[The prepared statement of Ms. Rengel appears in the appendix.]

Mr. SMITH. Ms. Rengel, thank you for your excellent statement. I'd like to ask Ms. Shea if she would present testimony.

STATEMENT OF NINA SHEA, PROGRAM DIRECTOR, THE PUEBLA PROGRAM ON RELIGIOUS FREEDOM, FREEDOM HOUSE

Ms. SHEA. Thank you, Mr. Chairman. Thank you for holding these hearings today.

While we may disagree with certain methodological approaches or factual nuances, overall Freedom House found these Country Reports to be an accurate, good faith effort to assess human rights practices worldwide.

For 25 years, Freedom House has published its own World Survey on the State of Democracy Worldwide and we have found a direct correlation between democracy and human rights. While not all 117 democracies throughout the world respect human rights, all in our free category are democracies.

So the Country Reports form the underpinning for a policy of the United States to promote and bolster democracy and human rights globally. And like the other groups represented here, we are concerned about the disconnect between the Country Reports and foreign policy.

For example, one of our concerns is that U.S. foreign aid, which is, as you know, scant today, and is diminishing, is still continuing to be provided to tyrannies around the world, particularly in Central Asia and Indonesia, to strengthen their economies. We think that it would be best if this foreign aid were put to economically strapped countries that are playing by the democratic rules.

Mr. Chairman, I'm going to focus today on the religion section in the Country Reports. Freedom House's area experts have reviewed the various countries in the report and we decided that across the board, the weakest area in the Country Reports reporting was on religious freedom.

There are two general problems we've identified in the State Department's coverage of religion. First, the Country Reports, in some cases, do not adequately distinguish among the various Christian denominations in a particular country, but instead, generalize the experience of the dominant religious group that usually has the most freedom. This is true in the Ethiopia report, which I will get to in a second.

Second, the Country Reports in some important instances also fail to address the role of society in persecuting religious minorities, concentrating instead on active government involvement in religious intolerance, while ignoring the government's own passive role in the face of social terror, which can be quite extreme. And, as you pointed out, Pakistan is a case in point.

And it's worth noting that in the section on women in the Country Reports, societal violence is often the main focus of the reporting.

Some country assessments include a section on religious minorities. Those which do tend to be more detailed and comprehensive than those Country Reports that limit discussion on religion to a freedom of religion section. However, where the two sections appear in one report, such as in the case of Egypt, the impact is lost somewhat, due to the fact that they are separated by eight other human rights sections. So in our opinion it would be optimal if all

Country Reports were to include both sections and present them consecutively.

Both of these shortcomings in the reporting lead to serious distortions in the profiling of countries in the area of religious freedom. I'd like to give a few examples.

Ethiopia is a prime example of a Country Report that ignores the plight of a minority religion, in this case evangelical Protestants. The Country Reports makes no mention at all of the evangelicals or any other Christian group in Ethiopia.

Reports of the U.N. Special Rapporteur on Religion, News Network International, Voice of the Martyrs, as well as the Puebla Program of Freedom House provide substantial evidence that evangelical Christians continue to experience severe persecution by both Muslim and Coptic extremists while the government, at times actively contributes to the persecution, while at other times allows others to terrorize evangelicals by failing to offer them protection.

Evangelicals in Ethiopia have had their eyes plucked out, their businesses burned, their homes and possessions taken from them, their lives threatened. They have been terrorized by angry and violent mobs, prevented from burying their dead, denied equal access to public facilities and forced to pay discriminatorially high fines.

Some in high levels of the Bureau of Human Rights recognize that these problems are going on, most recently in a letter in January that was sent out to the INS, but yet these findings have not found their way into the State Department Country Reports, which is, as I said, completely silent on Christian persecution in Ethiopia.

And the discussion on religion in the Sudan Country Report we believe misses the big picture by failing to address the reasons for the devastating war that has already left 1.5 million dead.

The war is being fought over Khartoum's policy of Islamization. What is taking place in Sudan today is essentially a war against non-Muslims and Muslim minorities. By neglecting to take this into account, the Country Report's religion section on Sudan only gives sketchy details of the bloody onslaught faced by Christians and other non-Muslims, focussing primarily on the more trivial incidents of harassment, discrimination and arrest.

It neglects to acknowledge the element of religious persecution in the discussion of slavery, mayhem and other atrocities. It fails to fully describe the cultural cleansing operation against Christian and non-Muslim boys in the north, in which the boys are taken from their families and forced to convert to Islam.

The report does not mention a very significant incident that is described in the report of the U.N. Special Rapporteur on Sudan, which occurred last May, in which soldiers in uniforms summarily executed 12 men, women and children for refusing to convert to Islam.

The discussion of freedom on religion in China is weakened by the Country Report's failure to mention the name Roman Catholic Church, which is banned in China, referring to it instead as the "unofficial" Catholic Church. In doing this, the Country Report misleads.

For example, the Country Report states that "The government permitted some Catholic seminarians to go abroad for study,"

when, in fact, these were not Roman Catholic seminarians but seminarians of Beijing's Patriotic Catholic Association.

In coining the term Patriotic Catholic for the parallel church that the Chinese Communists established in the 1950's and which does not recognize Papal authority and which, as you pointed out, is ultimately controlled by atheists, the Communist Party was deliberately attempting to confound the public, especially the West, about the true extent of religious persecution in the country. The Country Reports reflect that confusion.

By late 1995, Chinese Christian leaders from the banned House Church Movement were stating that they were experiencing the worst persecution since the pre-Deng period in the late 1970's. Four Roman Catholic bishops have been detained. An arrest warrant with the names of 3,000 evangelicals was circulating and more Christians were in jail or under house arrest than in any other country in the world.

By failing to note this trend, the Country Report allows for only a dim understanding of the extent of religious persecution in China today.

The section on religion with respect to China is also remiss in failing to discuss the coercive birth control policy in the context of religious freedom. Beijing's draconian one-child population control program is an obvious moral issue that divides the Roman Catholic Church from the Patriotic Association.

The freedom on religion section of the Country Report is not just an idle academic undertaking. It has important practical applications, particularly in the area of political asylum. Immigration judges around the country have relied on these Country Reports to deny political asylum to a Sudanese Christian activist whose employer was executed for religious reasons and his bishop told him to get out of the country for his own safety; to a Pakistani Christian who was acquitted of blasphemy but feared mob retribution; to over 20 Iranian Christian clergy who fled last year after four of their colleagues were gunned down by Muslim extremists; and as you pointed out, to numerous Chinese Christian women fleeing coercive abortions and birth control.

Another who was denied asylum based on the Country Report, and we have the decision from the judge saying that, was one of the most prominent evangelical preachers from Ethiopia. This is a man who had been tortured six times, had had boiling oil poured over his feet and then, when the government changed, tried to go back into his country and was immediately arrested at the airport. He managed to escape to the United States, and now he's in deportation proceedings.

So it is extremely important that these Country Reports give accurate accounts of religious persecution.

Mr. Chairman, I'd also like to just read into the record a short statement of findings on the question of slavery in Mauritania. Mr. Shattuck mentioned that Freedom House was allowed to go to Mauritania to conduct a human rights investigation recently. Because this has come up and we've never been able to address it, I'd like to just briefly address it now:

The question of slavery in Mauritania in the report focusses on actual practices while absolving the Taya Government of any role

in perpetuating these practices. The report attributes the practice of servitude, involuntary or otherwise, to socio-economic factors and to the fact that the so-called *haratine* or freed slaves lack awareness of their rights.

Yet the report fails to indicate that the government is deliberately pursuing policies that perpetuate this de facto slavery. The Mauritanian Government makes little or no effort to educate the ex-slaves about their rights. The report notes that the successive governments have pursued a process of Arabization of the schools and workplace, yet the work does not adequately underscore the way this process contributes to the social, economic and cultural underpinnings of slavery and to the repression of minority rights.

The report says that the El Hor movement, an NGO, works to "eradicate the vestiges of slavery". This is substantially inaccurate. El Hor is concerned with what it considered to be the continued practice of slavery in Mauritania. This is an important distinction because it directly challenges the Mauritanian Government's assertion that slavery is no longer practiced in the country.

Thank you.

[The prepared statement of Ms. Shea appears in the appendix.]

Mr. SMITH. Ms. Shea, thank you very much for your testimony and the important clarification on what's going on in Mauritania. I wish I had that earlier; I would have asked the Secretary. But we will ask him to respond to that.

Mr. Posner.

STATEMENT OF MICHAEL POSNER, EXECUTIVE DIRECTOR, LAWYERS COMMITTEE FOR HUMAN RIGHTS

Mr. POSNER. Thanks very much. Congressman Smith, I want to thank you for holding these hearings and particularly also publicly for support you've given recently to refugees and asylum applicants in the context of deliberations before Congress on those important issues.

The Lawyers Committee, as you know has monitored and reviewed the State Department Country Reports for a number of years. This summer we'll be publishing our 17th annual critique of the State Department reports. In general, the report that the State Department has just issued continues to be a steady improvement in general terms. The overall quality, we think, is quite excellent, but we will be commenting on a number of special provisions in the various chapters when we produce our critique.

There's one area I'd like to focus on briefly where I think there needs to be a sort of reexamination of the way an issue is cast, and that relates to the subject of restrictions against nongovernmental human rights and other advocates.

There is a section in the Country Report which deals in every entry with freedom of association. That tends to focus on trade union rights. There's another section that deals with the government's treatment or tolerance of nongovernmental activity. We think those things need to be merged in some way because often governments go to great lengths to violate the freedom of association rights of human rights and other advocacy groups. It is not enough merely to say, as the report often does, governments don't tolerate human rights activity. There are often laws, regulations,

intricate procedures that prevent that from happening, and we think that ought to be systematically reported throughout the report.

In general, we think the Country Reports, though, do serve a purpose of informing you and other Members of Congress. They are also a great resource to us and others in the human rights community, as well as performing what I think is an often underestimated educative role in terms of our own Foreign Service. There is no question that the Foreign Service, over the last 20 years, has been sensitized to the issue of human rights simply by the act of producing these reports.

I want to take a moment and reiterate a point, Mr. Chairman, you made in your introduction, which is that too often human rights concerns are subordinated to other interests. You said in your opening statement that these are issues that are simply too important to ignore. We couldn't agree more. In fact, we have produced a report which we are about to publish called "In the National Interest". We have made it available to you and other members of this subcommittee.

It is based on exactly that premise, that a consistent pursuit of human rights is not only compatible but likely to advance other U.S. national interests in the long run.

And I think these hearings this morning have indicated several areas where we don't now see that happening. I want to just take 1 minute on each of three of these issues.

The first was raised by Congressman Moran earlier relating to child labor and the broader issue of trade and human rights. The Administration, as Secretary Shattuck said, introduced last year model business principles. One of the things that they promised to do was to follow up on those business principles, which included, among other things, the issue of child labor as one of the areas that businesses, American businesses, ought to be concerned about.

One of the things that we were greatly concerned about is that all the action, all the activity here is happening in one bureau in the State Department. There is nobody in the Commerce Department; there is nobody in the Treasury Department looking at these issues; there is nobody in the Energy Department.

One of the things we recommend in our report and one of the things that I think Congress ought to be talking to the Administration about is how do we integrate human rights into broader foreign policymaking and not have it be ghettoized in one small part of the State Department?

And in no area is this need more obvious than in the issue of trade and subjects like child labor. It is often the people in the Commerce Department or the Trade Representative's office or Treasury who are saying while we have to be sure to advance economic interests, but often at the expense of human rights. We need to integrate human rights into every part of decision-making on trade, investment, labor rights, the broad range of economic issues.

The second issue that was raised by you and Congressman Hyde was the question of human rights when it comes up against immigration control in the context of the China policy. I'm very glad you raised that. One of the things we have been concerned about with this Administration is not so much the reporting on these issues—

the issue of the one-child-per-family policy and the coercive aspect of that, but the way in which that issue has been raised in the context of reports that are now done by the State Department called Profiles on Country Condition and Asylum Claims.

Nobody asked for these reports, but the Administration has taken it upon itself to produce these periodic updates, in effect, to guide immigration authorities.

The report on China devotes almost a third of its attention to the issue of family planning and whether it is coercive. In our judgment, it goes way out of its way to reassert Chinese Government positions or to restate the Chinese Government's assertion, and I'm quoting here, that "It is impossible to force a woman to have an abortion against her will or to force a person to be sterilized."

The assumption one makes when reading that report, and this is, after all, what U.S. immigration officials, judges and others are reading, is that the position of the U.S. Government is essentially agnostic on this question. As far as we are concerned, the Chinese Government's position may or may not be true.

In addition to what you asked Secretary Shattuck this morning in terms of changing the Immigration Service policy, it is important that you and others in Congress look at these asylum profiles to make sure that such language doesn't come in through the back door, through asylum profiles which informs the immigration process but which may be inconsistent with the Country Reports.

A third issue has come up, and several of my colleagues have mentioned it. I want to reiterate its importance. It is where human rights and security come in conflict and the issue of the sale of the Cobra helicopters to Turkey is an example.

Our understanding is that this is very much a live issue and, in fact, the President has sent a letter to the Senate Foreign Relations Committee in the last 5 or 6 weeks emphasizing that Turkey has demonstrated a need for the Cobra helicopters, but saying that we are required to consider a number of other issues, including human rights.

The assurance has come to the Senate Foreign Relations Committee that this is an issue about to be decided by the White House, and I would urge you and other colleagues here to take this moment and make sure that you register your concerns that human rights be part of that decisionmaking explicitly.

Thank you very much and I welcome questions.

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

Mr. SMITH. Mr. Posner, I do want to thank you for pointing out that asylum profile. That's something we need to focus on and it may account for some of the decisions that have been received previously. If that's the kind of poor analysis they're getting, you can't blame a judge for coming to a bad conclusion. So I think it's very important that you've brought that to our attention. I do thank you for that.

Having read your testimony and now having heard your oral presentations, I do have just a few questions before concluding the hearing. As you saw, I tried to pose some of these questions to Secretary Shattuck, and many of those things he will be getting back to us on.

The first—you heard, I think, Ms. Burkhalter—was the question on Guatemala and whether or not progress has been made there and whether or not some of the funds that have been held in abeyance because of their abuses should now be lifted, particularly as it relates to ICITAP funds.

Do you have an opinion, or do any of you have an opinion, whether or not it would be prudent to begin opening up that channel again?

Ms. BURKHALTER. I would want to consult with my colleague and I'll get back to you more fully. My first thinking is no. I am very impressed, as you are, with President Arsu's very conscientious activity in his first couple of weeks in office.

On the other hand, rewarding the military—I should restate that. Providing a spigot of aid to either the police or the military while abuses continue, notwithstanding the new president's very good gestures, is a bad idea.

Now, I would have to know more about what the ICITAP program actually is because there are some aspects of it that can be quite helpful, and I'll be happy to get back to you with more detail.

I would also say that if the United States can take the lead at the United Nations on continued funding for Minugua, the U.N. human rights monitoring force that is in Guatemala, that issue comes up, I think, today at the Budget Committee of the United Nations and Managua is in real trouble, and it has been real helpful in providing monitoring and a degree of protection for victims in Guatemala and it needs to stay. It's one place where the United Nations monitoring operation has worked brilliantly and it needs to be continued.

Ms. RENGEL. I would like to make a comment, just in the context of impunity in general. I think before any release of funds should take place they ought to look into what concrete human rights steps have been taken and whether there really is a political will to end impunity and look very closely at the specific cases that, in fact, were cited—the 8 generals and 118 police that were fired.

I think it's very important to know whether or not those generals and the police were dismissed on human rights grounds. I don't think that one can just assume that's the case. I think one has to look very specifically at those instances and see whether, in fact, there is some beginning to end the impunity that has characterized that situation.

So I think one has to look more deeply into that situation before responding in the way of release of funds.

Mr. SMITH. I do know, in meeting with human rights groups in-country, including Ms. Menchu, you might recall, the Nobel Prize winner, and Helen Mack, the sister of anthropologist Myrna Mack who, as you know, was killed by a death squad. They all had a sense of being very much encouraged.

As a matter of fact, when Arsu was first sworn in they were not very happy and said so publicly, and within the course of about 3 weeks when he was sworn in, I met with him and they had changed their tune considerably. It would be interesting to know whether or not that continues to be the case. But it was encouraging, at least. It seems to me that a very limited opening of the spig-

ot might be a wise way to advance human rights, provided the money was used very carefully.

On the question of human rights in China, this is a very broad question but be as specific as you'd like in your answers. Do you believe human rights conditions in the PRC have improved or deteriorated after the delinking of MFN in 1994? And what is your evaluation of the effects, if any, of the Administration's current policy of comprehensive engagement on human rights violations in China?

Ms. Shea, again, you have already spoken to the religious persecution. You might want to elaborate on that because it is my sense, and correct me if I'm wrong, that it got worse and is getting worse. As a matter of fact, Li Peng issued his decrees 144 and 145 right after I left meeting him. Frank Wolf, a Congressman from Virginia, and I met with him. I don't think we in any way induced this but, lo and behold, afterwards he issued these broad, sweeping powers to the public security police that have been used with impunity ever since against the House Church Movement and the Catholics. Ms. Shea.

Ms. SHEA. Yes, Mr. Chairman. We would concur with that. Religious freedom particularly is declining. Things are getting worse and there's lots of evidence for that. There's an arrest warrant with 3,000 names of evangelical pastors circulating right now. There were a couple of incidents over the past year of hundreds of Christians being taken under arrest at a single time. There's a new hardliner as head of the Religious Affairs Bureau. There's a new resolve on the part of the government to get the unregistered churches and to stamp them out.

So I think unequivocally, yes, it's gotten much worse and the policy of engagement is not working to improve human rights.

I noted before and I'll say it again that we're very troubled because we've seen actually American companies adopting Chinese practices in their work places in China, rather than exporting Western values. So you have Christians being fired after they're arrested for praying without authorization. You have some companies applying the one-child policy coercively in their work place and companies using slave-made goods.

Ms. BURKHALTER. I think the situation certainly has not improved. My organization released a report on Tibet, as well, and our co-organization in London also agrees that the situation in Tibet in particular appears to have deteriorated since the delinkage.

I don't think revocation of MFN is actually on the table. I think that it is going to get vetoed. I think that it's unrealistic to threaten the Chinese with something we're not going to use.

That was really the problem with the executive order. The executive order was fine but it raised a very big stick and one that everybody, I think, by the end of the day, understood we were never going to use.

Human Rights Watch has always favored a policy of threatening with less but then actually making good on the threat. In other words, don't be threatening the trade equivalent of the nuclear bomb when you don't intend to use it but rather, be more nuanced

in your activity and in your use of diplomatic tools, however small they might be, but then be serious about it.

I think that isolating China is also not an option. I have no problem with engagement as long as engagement is not used to bolster the fortunes of the people that are most responsible for abuse. But I think you can have engagement while, at the same time, using some of these diplomatic and economic tools that are available and that have been used in other places.

Mr. SMITH. What tool should we be using that we're not using?

Ms. BURKHALTER. I think two things. It's probably unrealistic to bring it up, but I think we could still use targeted trade sanctions under existing U.S. law, particularly with regard to prison-made goods. We can just stop the ships, turn them around, not let them in, and start being serious about either we get action from the Chinese on a memorandum of understanding that was negotiated many years ago and that they have never made good on, and either we get appropriate response to a negotiated agreement that we made with the Chinese or we're going to stop letting some of these products come into the country.

That is a titrated, nuanced approach. It does not end trade with the Chinese by any means, but it does give us a little more seriousness when our trade negotiators and our human rights people sit down at the table with the Chinese.

Second, I think everybody, both in the NGO community, the Congress and the executive branch, knows that the best policy for human rights in China is a multilateral approach. The Administration has embraced that approach in Geneva and we appreciate that very much. I think we should do it, as well, at the WTO and work with our allies and make it a top priority. There should be some rules of the road for the Chinese in terms of WTO admittance and those rules of the road should include, at a minimum, some labor rights guarantees.

Mr. POSNER. Can I just add two things? I think that it is very important, when we talk about multilateralizing the pressure on China, that we do it at the highest level. The G-7 meets every year. China has not been on the agenda, even informally, since Tiananmen Square. And it seems to me if we are serious, we have very important relationships with Great Britain and France and Japan and we pick priorities. If we are serious about human rights in China, then let's have a discussion at the Presidential level or Prime Minister level, talking about what are we going to do collectively to make this happen?

It hasn't happened. There has not been that kind of a high level discussion. I think there needs to be.

Ms. RENGEL. I would certainly agree that the situation in China has deteriorated, rather than improved and that it was extremely unfortunate that the President of the United States specifically delinked human rights from trade with China. I think that was very unfortunate and I think the entire human rights community saw that as a major defeat in terms of integrating human rights into U.S. foreign policy, which now certainly includes trade policy.

I would just mention a couple of things with regard to China. We agree that the grant of MFN status, which is coming up for discussion again in June, should be a context in which the human rights

record of China is seriously and strongly debated. That doesn't necessarily mean, as I think Holly has indicated, that you necessarily go for a total ban, but there certainly is something in between, I think, that can be used as leverage to improve the human rights situation in China, which badly needs it.

I would mention, for instance, in the area of religious persecution, not just the persecution that has been mentioned of those groups in China but certainly the treatment of the Panchen Lama, the designee by the Dalai Lama of his successor. The Panchen Lama was found by the Dalai Lama and then "disappeared" by the Chinese, who then substituted their own Panchen Lama. That is unforgivable. It is something that should be continually raised, I think, in any of the meetings with China.

Also, China has expanded the number of crimes for which the death penalty can be granted and they already hold the record for the number of executions. As you know, Amnesty opposes the death penalty in all cases, as an abolitionist organization.

I would second Mike's comment that this really has to be taken up at the very highest levels of government. We find that President Clinton is willing to make comments about delinking, but we don't find him really willing to make comments about human rights. And sometimes he really totally misses.

I would comment, in the Russian context, where he referred to Chechnya as an internal affair of the Russians. That kind of language is shocking to the human rights community, since the establishment of the Universal Declaration of Human Rights and all that went into, in fact, the modern human rights movement.

So the President makes very unfortunate statements and I think he's got to start setting the record straight and making more statements of condemnation, statements of linkage, statements that show that there's a seriousness at the very highest level of putting human rights on the table in foreign policy, including in trade policy.

And certainly we think that the current Human Rights Commission meeting is one place where President Clinton can start to use his influence, contacting other heads of government. The Chinese are taking that resolution very, very seriously. Some of the Western European governments, we understand, are starting to waffle on that. We think it would be extremely unfortunate if that, in fact, were the case.

So we hope that the President will become personally involved in supporting the resolution at the Human Rights Commission through his own lobbying, and not leave all the work on human rights to Secretary Shattuck, who is a yeoman in the field and deserves to be commended, but also deserves some help.

Mr. SMITH. I agree he's a yeoman in the field and unfortunately—and Mr. Posner, you mentioned this earlier—human rights are ghettoized in this Administration. We tried to change that on this committee. We got legislation passed—unfortunately, it doesn't look like it's ever going to become law—that would have changed it so that when you talk about the line authority, the Assistant Secretary for Human Rights does not percolate up to an Undersecretary of Global Affairs, Tim Wirth, for whom this may or may not

be an issue on any given day. We have found that the buck usually stops there. It goes no further.

I think one of the reforms, looking to perhaps a new Administration, which on the Republican side we'd like to see; some would like to see the current one continue. There needs to be some fundamental change as to how human rights are regarded within the next Administration because right now they get short shrift.

And on the issue of Chechnya, I think that's a very good point you made, again, about the so-called internal affair. We've had three hearings, including in this room, where we've heard from Elena Bonner and from Mr. Kovalez who, just a couple of weeks ago, said, and said it very strongly, that democracy may be over in a matter of months in Russia, with the elections that are upcoming in June.

There's already a massive swing toward the privatizing of human rights abuses, as I mentioned earlier.

In talking about so-called internal affairs, I remember that people used to say the same thing about South Africa. The argument has no more moral weight now in Russia, just because some of us happen to like the guy who is running Russia. I don't, but others do.

Let me just ask a couple of other questions and then, if you have anything else to add, you may do so either here or in a written form. I know it's late and I apologize for the lateness. The importance of these hearings is not diminished, even though members have dwindled. We take the information in the record and can use it to make human rights more important in Congress and at the White House.

Pakistan. There was some brief reference to it earlier, and I know Secretary Shattuck will be getting back to us with more information on that. But it seems to me that there has been a profound reluctance on Western governments in general, and the United States in particular, to speak out against religious intolerance in Islamic countries, many of whom are our allies, like Saudi Arabia. We saved their hides not so long ago when Saddam Hussein was intent on perhaps rolling into Saudi Arabia.

What should we be doing? We've thought perhaps of having hearings on this. Pakistan certainly is a case in point where these vigilante Islamic terrorist groups, just through a denunciation, can take the law into their own hands—an unjust law to begin with—and visit very, very bad things on people.

Do you have any recommendations as to what we should be doing on this?

Ms. SHEA. I think one of the problems is that the government of Pakistan expresses sympathies with our point of view and says it's trying to do something about the radicals, but doesn't feel any great pressure from us and therefore is only getting pressure from one side and it finds it easier to do nothing or even to, in some cases, give in to the radicals.

For instance, with the blasphemy laws, there's no proposal on the table in Pakistan to revoke the blasphemy laws. Not only are they bad in themselves but they're giving rise—they're fomenting hatred and bigotry among the population to take law into their own

hands, so that even if you're acquitted, you can be gunned down by the society at large.

We need to get tough with the government of Pakistan and exert some pressure, maybe through foreign assistance or defense or whatever, but to come up with some lever to really demand respect for freedoms.

Mr. SMITH. Holly.

Ms. BURKHALTER. I'm sorry, could I just make a very quick comment from your last comment? If the record shows that it looks like there's a consensus, I wouldn't be comfortable with it.

I'm not quite sure I could go along with the conclusion that human rights are ghettoized in this Administration or necessarily in previous administrations. There are places where they are. I think, for example, the human rights message is not getting through, because it is largely the purview of the Human Rights Bureau, in the case of Russia, but there are other places where I think it's impossible that we would have had some of the actions that we've seen, that have been positive, if it was exclusively the domain of the Human Rights Bureau.

I don't think we would have had the kind of resources that have been put into the War Crimes Tribunal. I don't think we would have the presence of U.S. soldiers in Bosnia now. I don't think we would have had the complete ouster of the army in Haiti if all of this were just John Shattuck and his shop.

There are places where he is all alone, most likely, but I don't think it's fair to say that overall, human rights are ghettoized in this Administration. Nor were they ghettoized in the Bush administration. We wouldn't have had the entry of U.S. troops in Somalia to feed people if human rights had just been the purview of the Assistant Secretary of State for Human Rights.

So if that is the general consensus of the group, I'm not part of it entirely. Thank you.

Mr. SMITH. But is it consistent?

Ms. BURKHALTER. No, it's not. Certainly there are places where we could ask for more and do so, and that's generally what all of us tend to concentrate on. Thanks.

Mr. POSNER. Could I just react to that? It is an interesting point where Holly and I may disagree a bit. I think when I say earlier, and I did say it, that often these concerns are ghettoized, what I mean by that is that where there are sharp conflicts in policy, human rights tends to be left to the Human Rights Bureau to fight for.

Holly is absolutely right and I think John Shattuck has done a terrific job as an advocate for human rights, bringing it more broadly into the discussion of subjects like the Bosnian policy and the Dayton Accords. I think there was an Administration-wide commitment to the War Crimes Tribunal.

But where there is a real sharp conflict, as in the area of trade, it tends to be everybody saying, "Well, if you want to talk about something like that, go talk to the Human Rights Bureau."

And my concern is you have got to broaden the discussion. There have to be people in the various agencies who get up in the morning and say, "How do we promote a human rights policy for the U.S. Government and how am I going to get people I work with

every day to take this more seriously?" I don't think we are there yet.

Mr. SMITH. The U.S. Government has been anxious to secure continued Syrian involvement in the Middle East peace process. In your views, has the United States muted its criticism of Syria in any way with regard to its serious human rights violations in order to win its support for other political objectives?

Ms. BURKHALTER. Well, the State Department Country Report was very strong and we were privileged to have been referred to a couple of times, along with some of the other groups here. We had our first-ever mission to Syria and gained a great deal of information.

The Administration has been pretty quiet about Syrian human rights abuses. Even while there's a lot of emphasis, appropriately so, on Syrian support for terrorism, there is not commensurate attention to abuses against Syrians in Syria. And we would welcome seeing not only more public attention to human rights in Syria but also bringing of certain human rights issues, really egregious human rights abuses, to the table at high level discussions. And I don't mean between John Shattuck and his counterpart but rather between President Assad and President Clinton. Thank you.

Ms. RENGEL. I think we would affirm that. I think there are very, very serious internal problems with human rights in Syria and have been for a long, long time. The Assad regime is very, very repressive and I think, again, it's a matter of getting it on the table and having it be part of a wider dialog and a dialog at a higher level.

Ms. SHEA. I agree with that.

Mr. SMITH. Let me just ask two final questions. In your view, does the Castro regime's treatment of those who attempt to leave, which includes loss of employment, acts of repudiation and other forms of harassment, as well as the frequent denial of exit visas, constitute a violation of internationally recognized human rights to leave countries, including one's own?

And in light of those practices, does the Clinton-Castro agreement amount to United States complicity in any of these violations?

Ms. BURKHALTER. Well, it's my understanding that in the context of that agreement, the Cuban Government decriminalized illegal exit so that, at least on the books, it is no longer a crime to leave, which is not an insignificant event. It was a welcome development and if it hadn't occurred, I think that we would have been even more troubled than we were by the agreement.

That does not mean that there's not harassment and worse of those who attempt to leave, but at least a first step has been taken by saying that they won't necessarily go to jail for it. And since people who had attempted to leave "illegally" before had made up, I'm afraid to say, the bulk of the political prisoners in Cuba in years past, I think it's a significant achievement.

Having said that, however, I am not persuaded that the U.S. Interest Section in Cuba has the ability to either monitor or protect an operation where people come to the embassy to apply for political asylum, and I think that there remain problems in the implementation of the agreement.

Ms. RENGEL. I find it very, very disturbing that the fundamental human right to choose to leave one's country is decided by either President Clinton or President Castro. I think it should be decided by the individual who feels that, in fact, they are in danger and need to flee.

And I think we have to continually reaffirm that right on the part of every human being to flee and to seek asylum in another country.

Ms. SHEA. Once again, we agree with Amnesty on this issue and I'd like to have the opportunity for Frank Calzone for our organization, Freedom House, to respond in writing to some of the specific concerns he has regarding the returnees.

Mr. SMITH. OK.

Ms. Burkhalter, I was unaware of the formal decriminalization. I would appreciate it if you could enlighten the subcommittee on any additional information you have on that because the basic text of the agreement, as we saw it, was the "mainly persuasive methods", which, again, I've asked the Administration over and over again, "What happens when they step over the boundaries, and what are those boundaries?" and we just haven't gotten a clear read on that.

Ms. BURKHALTER. I'll be glad to provide information for the record as best I can.

Mr. SMITH. I would appreciate that.

[The response follows:]

Police Aid (ICITAP) to Guatemala: The staff of our Americas division, who follow the situation in Guatemala closely, are strongly supportive of the proposed ICITAP program of police aid to Guatemala. This is precisely the moment to support the reforms of President Arzu, and the proposed police aid program is one way to do so. It is our understanding that it includes assistance in curriculum development, computers for an office of professional responsibility, and assistance in developing a Special Investigative Unit for particularly sensitive human rights cases.

Cuban Emigres: I spoke in error when I stated that the Cuban Government had decriminalized emigration ("illegal exit"). Rather, in the context of the U.S.-Cuban emigration agreement, the Cuban Government promised not to prosecute for illegal exit those persons who are repatriated to Cuba from the United States. That is very different from decriminalizing exit for all Cubans. I apologize for the error.

We may have some additional questions for the record. As usual, I think you have been the true soldiers of the human rights movement around the world and the leaders, the generals, if you will. I deeply appreciate all the work you do and the guidance you provide us. We are indebted to you.

Thank you very much. The hearing is adjourned.

[Whereupon, at 1:22 p.m., the subcommittee was adjourned, to reconvene subject to the call of the chair.]

APPENDIX

Testimony by

The Honorable John Shattuck

Assistant Secretary of State

Bureau of Democracy, Human Rights and Labor

Department of State

on

Country Reports on Human Rights Practices for 1995

before the

House International Relations

Subcommittee on

International Operations and Human Rights

March 26, 1996

Mr. Chairman and Members of the Committee, thank you for this opportunity to discuss the "Country Reports on Human Rights Practices for 1995." This Congressionally mandated document has proven to be an extremely valuable foreign policy tool, and Congress should be applauded for requiring its production. We can be justly proud of the Reports, which put the United States Government on public record in rigorously evaluating human rights conditions in every country around the globe. This document has gained wide acceptance as a comprehensive, reliable, and balanced summation of human rights conditions.

I would like to begin my prepared remarks by commending the hundreds of dedicated State Department officers who worked on the Country Reports, especially my own staff. These officers work throughout the year to monitor events and gather information, and it should be noted that they work especially long hours in the weeks prior to the submission of the report. So, it is appropriate for me in this formal Congressional setting to begin my remarks before the Committee with a public word of appreciation to these fine professionals.

Introduction

Several distinctive events of 1995 marked progress toward resolution of some of the world's most catastrophic human rights crises. Most dramatically, the November Dayton Accords ended the fighting in Bosnia, which for the first 6 months of the year was the source of continuing, massive, and highly publicized crimes against humanity. At the heart of the Dayton Accords is a framework of commitments and institutional mechanisms aimed at restoring human rights and promoting justice, without which peace cannot be secured.

Other conflicts which had spawned major human rights violations also moved closer to resolution; 1995 saw steps towards peace in Angola, the Middle East, and Northern Ireland, with inevitable setbacks along the way towards the resolution of long struggles. In Haiti, continued progress toward the restoration of democratically elected government, with the assistance of the U.S.-led Multinational Force, marked another bright spot for human rights. In Central and Eastern Europe, as well as in Latin American and in parts of Asia and Africa, some new democracies consolidated their movement towards more open civil society, and a few experienced peaceful transfers of power through democratic elections. Internationally, a number of new human rights institutions took root; especially noteworthy was the work of the International War Crimes Tribunals for Rwanda and the Former Yugoslavia in The Hague. The U.N. Fourth World Conference on Women focused global attention on the rights and empowerment of one half of the world's people, many of whom suffer discrimination and mistreatment in every part of the globe.

At the same time, in many countries around the world widespread abuses of human rights continued unabated in 1995. The pages the 1995 Country Reports document innumerable instances of extrajudicial killings, disappearances, torture, arbitrary detention, and denial of fair trial in all parts of the world. Fundamental freedoms of conscience, expression, assembly, association, religion, and movement were routinely violated by many governments. Discrimination based on race, sex, religion, disability, language, or social status was a pervasive problem in many societies. Basic worker rights were often denied. While democracy advanced in many countries, it registered uneven progress in others; some young democracies were snuffed out by violent coups d'etat. Continuing conflicts in Afghanistan, Burundi, Chechnya, Guatemala, Kashmir, Sudan, and elsewhere resulted in major human rights violations. In countries such as Burma, China, Cuba, Iran, Iraq, Libya, Nigeria and North Korea, governments continued systematically to deny basic rights to their citizens.

The Pursuit of Justice and Peace

The post-Cold War world poses new challenges to human rights. Familiar abuses committed by strong central governments persist, including repression of dissent, torture and political killing. These are increasingly matched, however, by human rights abuses stemming from the dissolution of state authority, and from the manipulation by cynical leaders of ethnic, racial, and religious differences to incite atrocities against civilians. The experiences of Bosnia, Burundi, Afghanistan, and Liberia demonstrate that no area of the world can claim immunity from this danger, which has serious implications for the future of human rights promotion. Alongside advocacy and more traditional diplomacy, the development of institutions that will carry human rights protection into a new century is becoming an increasingly urgent task, as the familiar shapes of our world steadily undergo significant change.

Bosnia provides a stark example of a human rights nightmare sparked by aggression against civilians based on their ethnicity. The efforts in 1995 to end the horrors of Bosnia, however, yielded valuable lessons that might be applied in future conflicts. Intensive U.S. diplomacy backed by credible force led to the Dayton Accords which ended the conflict.

The drafters of the Dayton Accords recognized the essential relationship between peace, justice, and respect for human rights. The Accords provide an interlocking structure of constitutional guarantees; new institutions, including a constitutional court, human rights chamber, and ombudsman; international monitoring of elections and human rights performance, and a mandate for the investigation and

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prosecution of war crimes. This unprecedented peace agreement synthesizes human rights, justice, and conflict resolution in a framework that has the best chance of securing a real peace.

The diplomatic and military efforts to end the human rights crisis and restore democratic government in Haiti were an important forerunner to the Dayton Accords; in Haiti, as in Bosnia, we saw that international support for the reconstruction of civil society, democratic institutions, and the rule of law is essential to ending human rights catastrophes.

As the promotion of human rights increasingly moves beyond cessation of immediate abuses to broader reform of political, legal, and social institutions, justice assumes an ever larger role in fostering reconciliation. Individual accountability is a critical element in the passage of nations from repression to freedom. For human rights to take hold, leaders must be held accountable to their people and to the fundamental norms of the international community as set out in the Universal Declaration of Human Rights and international law.

A successful transition from a conflict-ridden past to democratic governance is aided by official efforts to acknowledge the sufferings of victims and honestly reckon with the past. In settings ranging from Chile, Argentina, and El Salvador, to South Africa, Germany, and South Korea, a variety of institutions rooted in local political cultures has arisen to address the need for accountability as a prelude to reconciliation. The U.N. War Crimes Tribunals in the Hague represent one of the clearest attempts by the international community to integrate justice with reconciliation and peace.

Implementation of the Israeli-Palestinian agreements brought with it a reduction in the level of violence in the West Bank and Gaza, although the terror of suicide bombing continued. The withdrawal of Israeli forces drastically diminished the official confrontation between Israelis and Palestinians and resulted in fewer Israeli human rights violations. The Palestinian Authority, for its part, took important first steps toward creating institutions of self-government, though its progress was uneven.

South Africa continued to consolidate its new democratic institutions, and to deepen national reconciliation by promoting broader justice.

Familiar Abuses in New Contexts

In a number of countries, familiar patterns of abuse occurred in changing contexts in 1995.

The Chinese Government continued to commit well-documented human rights abuses in violation of international norms. Although there was greater emphasis on legal reform, by year's end almost all public dissent against the central authorities was silenced. At the same time, robust economic expansion produced increased social mobility and access to outside information. The experience of China in the past few years demonstrates that while economic growth, trade, and social mobility create an improved standard of living, they cannot by themselves bring about greater respect for human rights in the absence of a willingness by political authorities to abide by the fundamental international norms.

In Russia, while Communist totalitarianism has been succeeded by electoral democracy, the future remains uncertain. This year saw continued and widespread use of Russian military force against civilians in Chechnya, the undermining of official institutions established to monitor human rights, and the continued violation of rights and liberties by security forces.

The Government of Cuba's behavior regarding human rights remains deplorable; human rights activists and dissidents are regularly arrested, detained, harassed, and persecuted, while the Cuban people continue to be denied the most fundamental rights and freedoms.

Nigeria presents a more classic picture of human rights abuse, as the regime of General Sani Abacha continues ruthlessly to suppress dissent.

The situation in Colombia has not improved, owing to entrenched conflict among security forces, guerrilla armies, paramilitary units, and narcotics traffickers, compounded by the near impunity of narcotics traffickers.

In Guatemala, serious human rights abuses continued to occur, although significant progress was made in the peace negotiations between the Government and the guerrillas. Several human rights activists were also elected to Congress in the November elections.

Indonesian security forces in East Timor and Irian Jaya were responsible for significant abuses, although the Government was willing in some cases to prosecute those charged with abuses.

Outposts of unreconstructed totalitarianism remain in Iraq, Iran and Libya. Severe human rights problems persist in North Korea, despite progress on some other issues under the Agreed Framework.

In Burma, the State Law and Order Restoration Council continued to rule with an iron hand and to commit a wide range of serious human rights violations, although the release from house arrest of democratically elected leader Aung San Suu Kyi was a positive development.

While Turkey has instituted significant legal and constitutional reforms, it has not yet ended a continuing pattern of serious human rights abuses, including restrictions on freedom of expression, torture, and the excessive use of force against its Kurdish population in the course of the struggle against PKK terrorism in the southeast.

Egypt's long campaign against Islamic extremists has entailed continued abuses, including alleged extrajudicial killing and torture.

Saudi Arabia continues to restrict basic freedoms of expression, association, and religion, and systematically discriminates against women.

The government of Mexico continued its effort to end the culture of impunity surrounding the security forces and to initiate comprehensive justice reform; serious problems remain, however, such as extrajudicial killings by the police and illegal arrests.

Ethnic strife continued to complicate efforts to resolve instability in Burundi and Rwanda. In Sudan, the brutal civil war waged along ethnic and confessional lines exacted an inexorable toll in human suffering, while in Somalia, anarchical regional power centers, based on clan affiliation, persisted in the absence of a viable central government. Tentative signs of progress were evident in efforts to end Liberia's long and costly civil war, although final resolution remained problematic at year's end.

Rights of Women

This year saw an increased international focus on the human rights of women and the advancement of their status. The World Summit for Social Development at Copenhagen in March, and above all the U.N. Fourth World Conference on Women, held in Beijing in September, cast a spotlight on the broad range of issues related to the human rights, equality, and empowerment of women.

At the Beijing Conference, governments reaffirmed the universality of human rights and explicitly accepted the principle that women's rights are in the mainstream of all human rights.

The Beijing Declaration and Platform for Action committed governments to take specific steps to end violence against women, addressed the problem of rape in armed conflict as a human rights violation, called on the United Nations to integrate women into decision-making, urged an end to harmful traditional practices such as female genital mutilation, and dealt with issues of gender discrimination.

The Beijing Conference drew attention to the political, civil, and legal rights of women, who continue to be significantly underrepresented in most of the world's political institutions. Women in many countries are subjected to discriminatory restrictions on their fundamental freedoms regarding voting, marriage, travel, property ownership, inheritance practices, custody of children, citizenship, and court testimony. Women also face discrimination in access to education, employment, health care, financial services including credit, and even food and water. Other longstanding violations of women's human rights include torture, systematic rape, domestic violence, sexual abuse, harassment, exploitation and trafficking, and female infanticide.

The 1995 Country Reports chronicle the many abuses of women's human rights which continue around the world and include information on the steps some governments are taking to address these problems.

Many countries are making strides towards enabling women to realize their human rights. The Nongovernmental Organization Forum which took place in tandem with the formal Beijing Conference vividly illustrated the courageous and creative human rights work that women are increasingly undertaking at the grass roots level.

Worker Rights

Failure to respect basic worker rights as defined in several key International Labor Organization (ILO) Conventions is a growing problem in many countries. These core worker rights include freedom of association, which is the foundation on which workers can form trade unions and defend their interests; the right to organize and bargain collectively; freedom from discrimination in employment; and freedom from child and forced labor.

Despite broad international recognition of these principles, free trade unions continue to be banned or suppressed in a number of countries; in many more, restrictions on freedom of association range from outright state control to legislation aimed at frustrating workers' legitimate efforts to organize. For example, in 1995 Nigeria was cited by the ILO

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for its failure to repeal decrees dissolving unions and denying unions the right to elect their own leaders, two of whom in early 1996 remain jailed without charges. For the third time the ILO condemned Burma for its refusal to guarantee workers the right to join unions. Similarly, the ILO called on Burma to terminate its forced labor practices. The suppression of worker rights in Indonesia has remained a persistent international concern.

The relationships between worker rights, trade, and foreign investment remain the focus of ongoing discussions in 1995 in a number of international forums, including the Organization for Economic Cooperation and Development and the ILO. Domestically, the United States took action that resulted in the suspension of Overseas Private Investment Corporation benefits in several countries on worker rights grounds. Concern continues to grow over the practice by several countries of curtailing the rights of workers in export processing zones (EPZ's). In South Asia, Pakistan is a case in point, and EPZ's remain problematical in several Central American countries. A failure to protect worker rights in EPZ's often has a disproportionate impact on female workers, since they are usually the large majority of EPZ workforces.

Religion and Human Rights

In some countries, religious differences were seized upon in 1995 as a pretext for human rights abuses. Elsewhere, religious differences themselves set groups in conflict, especially where these differences were related to ethnic differences as well. The depth of the passions and commitments surrounding religious issues make this an especially pressing and sensitive problem.

Religious ideas and institutions have a major role to play in promoting respect for human rights. All the major religious traditions of the world offer deep resources and teachings that speak to the theory and practice of peace and justice, and many courageous men and women are putting those teachings to work in some of the hardest-fought conflicts and deeply persecuted societies of the world.

As new technologies foster increasing communication and contact among groups and societies, the religions of the world will have a major role to play in helping to articulate ideas and foster institutions that are authentic and compelling.

Human Rights Activists

No government, no matter how powerful or well-intentioned, can perform the human rights work being done at the grass roots by nongovernmental organizations (NGOs), whose members often expose themselves to great personal risks. The grass roots work of NGO's is irreplaceable not only because it is effective, but also because it is the strongest proof of the universality of human rights. Precisely because NGO's are deeply rooted in local societies and cultures and spring from their own communities, their work has an undeniable authenticity and legitimacy. Unfortunately, human rights NGO's continue to face impediments, harassment, and persecution in many countries of the world.

Looking Forward

With each passing day, we are increasingly at home in the post-Cold War world. That growing familiarity with the new international setting brings with it the recognition of what must be done to secure the progress of human rights into the next century. The challenges human rights advocates face are significant, indeed greater than one might have anticipated during the heady days of the Cold War's end. Yet the new international environment offers opportunities of its own for the development of institutions that will protect human rights in sustained and structural ways around the world.

These institutions cannot simply emerge of their own accord. They can come about only through the concerted effort of people of goodwill from countries and cultures around the globe, united in a commitment to reduce human suffering and protect human dignity. One of history's foremost champions of human rights, the Rev. Dr. Martin Luther King, Jr., said that "the arc of the universe is long, but it bends towards justice." There is still a long way to go along that arc.

Mainstreaming Human Rights in U.S. Foreign Policy

How does the State Department use the information in the reports? Over the past three years we have pursued a broad, multi-faceted agenda to mainstream human rights in U.S. foreign policy. Following a global directive issued by Secretary Christopher in August 1993, every U.S. Embassy now has an interagency human rights committee that considers ways in which the U.S. can encourage respect for human rights and the development of democracy in the host country. The Bureau for Democracy, Human Rights and Labor coordinates this effort.

The tools we use include sanctions, trade and arms sales restrictions, loan blocks, the granting and cutoff of bilateral

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and multilateral assistance, human rights monitors and investigations, training programs, bilateral dialogues, and work with NGO, business and labor leaders. The use of these tools is tailored to particular country situations and U.S. interests, and they have been applied in a wide variety of ways during the past three years.

On the multilateral side, we have led successful efforts to create new institutions to respond to human rights conditions in the post-Cold War world. U.S. leadership helped create the new position of United Nations High Commissioner for Human Rights; the UN Commission of Inquiry on Burundi; the International War Crimes Tribunals for the former Yugoslavia and Rwanda; a Truth Commission for El Salvador, Haiti, and Guatemala; and extensive international human rights monitoring missions in Rwanda, Bosnia, Haiti, Cambodia and Guatemala. We have spotlighted women's rights, including at the Fourth World Conference on Women, and we helped establish the UN Human Rights Commission "special rapporteurs" to investigate violence against women, religious intolerance, and the independence of judiciaries. We have provided assistance to victims of torture, and we have also worked to make the Organization on Security and Cooperation in Europe a more active organization in promoting human rights and democratic government throughout Eastern and Central Europe and the countries of the former Soviet Union.

We are building new international institutions of justice, accountability and human rights promotion, as well as new programs to promote democracy and assist countries in transition, in parts of Africa, Asia, Latin America, the Middle East and especially in the new states of central Europe and the former Soviet Union. In an era of shrinking budgets, the Administration has sharpened its coordination of democracy programs to make the best use of assistance funds. Federal agencies managing democracy assistance programs have new mechanisms for coordination, ranging from electronic data bases to closer cooperation in the budget process. And, we have forged closer relations with indigenous NGOs active in promoting human rights in countries in transition to democracy.

We have been in the forefront of the effort to win international condemnation of repressive regimes which are unlikely to be influenced by other policy tools. In the United Nations General Assembly and the United Nations Human Rights Commission, the United States has helped spearhead the successful multilateral drive to condemn human rights abuses by the governments of China, Sudan, Cuba, Nigeria, Iran, Iraq, Burma, and other violator regimes. In especially egregious cases, such as Cuba, Iran, Iraq, and Burma, and previously

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Bosnia, Serbia, and Haiti: we have imposed economic sanctions; and we are considering similar action in other cases, including Nigeria. In 1995, we forged an international coalition that for the first time defeated Chinese procedural maneuvering and brought a China resolution before the United Nations Human Rights Commission. The resolution failed by a single vote. We are renewing the effort again this year, working with the European Union and a coalition of democratic countries from Latin America, Asia and Africa as well as Central and Eastern Europe.

In putting human rights concerns at the center of our foreign policy we carefully tailor our approaches to encourage respect for human rights in all countries. But in 1995 we focused special efforts on a few key countries which were either U.S. foreign policy priorities or were particular human rights disasters, or both. In the interests of time, I will mention only two examples, Bosnia and Haiti:

In Bosnia, human rights have been central to the negotiation and implementation of the entire peace process.

The Dayton Accords have more human rights elements built in than any comparable peace treaty. These include constitutional guarantees, adherence to international human rights instruments, a new constitutional court, a human rights commission, provisions for free elections, release of prisoners, human rights monitors, and compliance with the International War Crimes Tribunal. We have kept these issues front and center in the implementation process, as I testified to this Committee in February. Last week, for example, I completed my eleventh human rights mission to the Balkans, where I arranged for investigators from the War Crimes Tribunal to obtain access to two Bosnian Serb prisoners in Belgrade who are being held in connection with the mass executions of Bosnian Muslims near Srebrenica last July. With Secretary Christopher, I negotiated transfer of the prisoners to the custody of the Hague by the end of March.

Haiti is another key example of human rights issues taking center stage in American foreign policy. It was unprecedented for a multinational coalition to join together to take concerted action to restore a democratic government that had been overthrown. We have now seen a crucial second democratic election in Haiti, and the installation of a new president. It was U.S. leadership that made this happen. And we are hopeful we will continue to see dramatic improvement in the human rights situation now that Haiti not only has a democratically elected government, but has seen a peaceful transition of authority to a new president following its second presidential election.

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We continue to work both multilaterally and bilaterally to promote greater respect for worker rights. Multilaterally, our focus is on the International Labor Organization (ILO). At last year's ILO conference, our efforts successfully centered on winning a condemnation of Nigeria for suppression of its trade union movement. We also cooperated with the ILO to improve the child labor situation in Bangladesh. Last year a new tool, the U.S. voluntary code of Model Business Principles, became available to assist our work in this area. It has been widely endorsed, and we are working actively to promote it. In the World Trade Organization (WTO) we have led the effort to maintain the connection between worker rights and the international trading system, both to promote greater respect for core labor standards such as freedom of association, and to ensure the political support we need for further trade liberalization. We are pursuing these issues in the Organization on Economic Cooperation and Development and the ILO as well as the WTO. In the meantime, we continue to work closely with the American labor movement and AID to strengthen worldwide programs that support the development of independent trade unions capable of defending their members' interests and strengthening democracy and civil society.

All of these represent revolutionary foreign policy initiatives. I'd also like to mention a few very important additional issues on which we've had human rights success. Working with the U.S. military, we have fostered a link between Latin American military establishments and human rights experts that affords us increased opportunities to do human rights monitoring and training. We have greatly expanded our interaction with NGOs. And, domestically, we have ratified several international human rights instruments, notably the International Covenant on Civil and Political Rights, the Torture Convention and the Convention to End Racial Discrimination. We are also urging ratification next of the Convention to End Discrimination Against Women.

In conclusion, Mr. Chairman, The Country Reports on Human Rights Practices for 1995 exemplify the bipartisan commitment that the United States has made to ensuring that the protection of human rights and the promotion of democracy are central elements in U.S. foreign policy. The executive branch is proud to have joined with the Congress in advancing that commitment in 1995.

Thank you.

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The State Department Country Reports and U.S. Human Rights Policy

Testimony of Holly Burkhalter, Washington Director Human Rights Watch

Before the International Relations Subcommittee on International Operations and Human Rights

March 26, 1996

Thank you for holding this important hearing, Chairman Smith. It is always a pleasure to appear before you. My name is Holly Burkhalter, and I am the Washington Director and Advocacy Director of Human Rights Watch. Human Rights Watch is a non-governmental human rights monitoring organization based in New York, comprised of five regional divisions and several functional divisions, including the Women's Rights Project, the Arms Project, and the Children's Rights Project. We welcome this opportunity to discuss the State Department Country Reports on Human Rights, and the Clinton Administration's human rights policies more generally.

I am happy to say that the trend of improvement in the State Department that we have seen throughout the last six or seven years continued this year in most cases. We offer our thanks and congratulations to the State Department and Embassy personnel who worked so hard to collect the information and bring it to the public in the annual report. As you know, a well-done country chapter is not only an important piece of human rights advocacy in its own right. It also reflects regular contact with local human rights monitors and international groups, as well as serious investigation by Embassy staff themselves. Many of the reports are outstanding in this regard, and reflect a serious, professional commitment to human rights by the authors and editors.

One area I specifically wanted to highlight was the reporting on abuses against women, which continues to improve in scope and detail. We welcome this information not only because it enhances the reports, but because it is an indication of heightened sensitivity on the part of those writing them. Nonetheless, this reporting can -- and should -- continue to improve if greater efforts were made to characterize abuses against women properly. First, those writing reports should be scrupulous about assigning state responsibility for abuses when appropriate. Second, there is a tendency to group all abuses against women in the section on discrimination, when in fact many abuses might be more properly reported as arbitrary detention, torture, or invasion of privacy.

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

Having offered that general congratulation to all involved in the process, with particular praise for the State Department Bureau of Human Rights, Democracy, and Labor, I would like to single out a few reports for comment, and reference U.S. human rights policy in those countries as well. Some reports which are excellent, and U.S. policy matches them in vigor and seriousness. A smaller category of reports are very poor indeed, and appear to reflect a lack of interest and emphasis on human rights by the Clinton Administration. Other reports are strong, but there is a serious disjunction between the findings therein and U.S. policies, which ignore or downplay the abuses. In other cases, reports are generally good and U.S. policies are generally appropriate, but some improvement is needed in both.

We at Human Rights Watch understand that we will have differences from the State Department and various embassies with regard to findings, tone, and emphasis. Our purpose today is to look more broadly at ways that the Country Reports can be made a more effective tool for promoting a strong human rights policy. In evaluating several of the reports (including excellent ones and very poor ones) several recommendations come to mind.

1. If a country has effective, serious human rights monitors, the U.S. Embassy staff should consider going over its findings carefully with them before submitting it for editing. (Alternatively, in countries without local monitors, the findings could be discussed with representatives of international human rights groups.) If the editing process changes the text significantly, the issues should be discussed with human rights activists to be sure that it is still appropriate. In the case of Rwanda, one of the disappointing reports mentioned below, if the main findings had been discussed with Human Rights Watch, for example, or with local human rights monitors, the problems of emphasis and omission could quickly have been flagged.

2. Following publication of the report, the Administration should consider convening country-specific meetings with human rights ngo's and various officials within the executive branch (from State, Defense, and Treasury Departments, for example) to discuss the findings. If there is criticism of the report, it can be discussed so that a fuller picture of a country's human rights record is on the table. If the report is accurate and thorough, such a meeting would be a means of disseminating it beyond the State Department Human Rights Bureau, so that the findings might be incorporated into the Administration's subsequent pronouncements. If this had been done on Tunisia, for example (described below), one might have hoped that Defense Secretary Perry's characterization of that country's human rights situation might have borne more resemblance to reality -- and to the State Department Country Report on Human Rights.

Similarly, if such a meeting were convened to discuss the Country Report on Russia, Treasury Department officials responsible for United States representation at the IMF and World Bank should be invited to participate, so that the question of international bank loans to the Yeltsin government might be evaluated in the context of the Country Report's accurate portrayal of appalling abuses in Chechnya. An inter-agency meeting on Turkey would evaluate the report in the context of arms sales, as discussed below.

3. The Administration should find ways of creatively repackaging the information contained in its human rights report to use in support of a strong human rights position internationally. Reports should be released not only in the host country, but should be discussed with our allies around the world, and used to support collaborative human rights strategies.

The following country examples of some of the various trends are not meant to be exhaustive, but rather to illustrate some of the strengths and weaknesses in the Country Reports, and suggest means of improvement.

Burma. Here is an example of a superb report which fairly reflects that country's disastrous human rights situation. Given the difficulties of monitoring in Burma, the depth and specificity of the report are a credit to those involved. It mirrors a strong Clinton Administration human rights policy on Burma, where the U.S. led multilateral efforts to pressure the SLORC regime. Those efforts included a strong presence at the U.N. Human Rights Commission, where the U.S. was key to renewing the mandate of the special rapporteur on Burma. Ambassador Albright visited the country after Daw Aung Suu Kyi's release and delivered a strong human rights message. And the U.S. reiterated its position that our government would not support World Bank loans to Burma unless human rights improved. This strong policy is especially welcome, given the fact that the United States's allies in Europe and Asia are moving in the other direction, tempted by investment opportunities. The arrest last week of members of the NLD party (and their seven-year prison terms) indicates the gravity of the human rights situation in Burma, and the importance of a strong U.S. human rights policy to address it.

Rwanda. This report, regrettably, is very weak, and appears to reflect a lack of emphasis on human rights in

Rwanda more generally. The absence of a U.S. Ambassador in Rwanda is no excuse for the mistakes and oversights in the country report. Included among them is the country report's figure of "hundreds" killed in the Kibeho massacre last April. In fact, human rights and humanitarian organizations on the ground at the time estimated many thousands dead. The United Nations' original estimate of the number of civilians who were killed when Rwandan soldiers fired into panicked crowds of refugees was 8,000 (That number was later revised downward to 4,000 -- apparently to mollify angry Rwandan government officials, who claimed, ludicrously, that only 384 were killed). The cold blooded massacre of many thousands of unarmed women, men, and children in the Kibeho camp was an extraordinary event in 1995. The Country Report's coverage of it was grossly inadequate.

Elsewhere the report was badly flawed in the analysis offered for the resignation of five cabinet members last year. The Country Report stated that: "Dissatisfaction with movement toward reconciliation, repatriation, and failure of efforts to restart the justice system and relieve prison overcrowding led to a cabinet shuffle in August." A more accurate way to describe the resignations of important moderates (including Justice Minister Alfonse Nkubito, Interior Minister Seth Sendashonga, Prime Minister Faustin Twagiramungu, Information minister Jean Baptiste Nkuliyingoma and Transport Minister Immaculee Gahima Kayumba) was that they left the government in protest over army abuses. The significance of the departure from government of the leading human rights figures because of army abuses cannot be overstated. The Report's bland, one-sentence description of a "cabinet shuffle" does not do it justice.

An extremely important omission in the report was the assassination of Pierre Clavier Rwangabo, the Hutu prefect of Butare who was killed in February. Rwangabo was a very important opposition figure from the MDR political party who was one of former Prime Minister Agathe Uwilingiyimana's closest advisors. He was assassinated (along with his son and driver) by men in military uniform, and despite the presence of an eyewitness, the police have not even opened an investigation into this case. The State Department Country Report hardly helped matters by failing to mention it at all.

The failings in the State Department Country Report are mirrored by a tepid U.S. human rights policy. Perhaps to compensate for shocking neglect during the genocide, the U.S. has now emerged as the new government's leading supporter, providing extensive support, including some military aid. This privileged position presents the U.S. with the opportunity -- and the duty -- to take the lead in denouncing abuses. But the U.S. Embassy in Rwanda and State Department spokespeople here have been excessively tolerant of abuses, and make few public statements about them. Such a policy is in keeping with a poor human rights report. Both should be improved.

India. This Country Report is another that is disappointing, and marks a departure from the last few years when there was much more forthright discussion of Indian government abuses. As such, it is consistent with an overall downplaying of human rights concerns by the Administration, particularly the United States Ambassador in Delhi. For example, though the report acknowledges that police have targeted human rights groups for harassment there is no mention of specific cases. In fact, the killing last year of the head of the Jammu and Kashmir Bar Association and arrests of several other human rights lawyers in Kashmir were important events which should have been highlighted. The report also fails to mention the Indian government's role in training and arming irregular counter-insurgency forces made up of captured or surrendered militants. Such forces have engaged in serious human rights abuses, including murder. The government's role in creating them is a significant human rights event that should have been discussed in the report. Finally, compared to previous years, the report is notably lacking in specific examples and numbers about abuses. In comparing this report with those in years past, a reader might come to the conclusion, wrongly, that the human rights situation in India (particularly Kashmir) has improved. It has not and an inadequate State Country Report on Human Rights is not helpful to those in India trying to address the victims of violent abuse.

Tunisia. Here is a country report that was well done. It was clearly based on diligent fieldwork and an interest in the human rights situation in Tunisia on the part of Embassy staff. It does fail to convey the extent to which Tunisia has been transformed into a police state that tolerates no dissent, and does not offer a context for the declining number of human rights complaints that were filed in 1995. (The government does its best to intimidate Tunisians from filing complaints with human rights organizations by stationing plainclothes police outside the office of such organizations, by barring international rights workers or by following them in such a way as to frighten Tunisians who might wish to speak to them.)

While the report might be improved, it is nonetheless a much better reflection of reality than the Defense Department's analysis. In "United States Security Strategy for the Middle East" (issued in May 1995) Defense Secretary William Perry notes that "Tunisia perceives a modest threat from an extremist Islamic movement called An Nahda. Police and military measures against the extremists have enjoyed popular support, albeit at considerable cost in terms of human rights." This comes very close to justifying abuse on the grounds of its alleged popularity with Tunisians. Moreover, it creates a false picture suggesting that the only victims of such "measures" are "extremists." In fact, Tunisians from all points on the political spectrum (and most especially professionals associated with efforts to promote protection of rights, democracy, and free speech) are the victims of Tunisia's increasingly repressive policy. In this case, U.S. human rights policy would have been better served if Secretary Perry had had access to the material that went into the State Department Country Reports when he wrote his strategic assessment.

Turkey: The State Department's report on Turkey was thorough and careful, and presented an accurate picture of continuing rights abuses there. The problem with U.S. policy towards Turkey is not its reporting, but rather the fact that reports do not appear to inform decisions on certain arms sales -- an important source of support for the Turkish armed forces. Human Rights Watch was astonished to learn, for example, that the executive branch is currently considering the sale of attack helicopters (Super Cobras) to Turkey. Our organization has documented numerous abuses committed with Cobras, including an incident in May of 1994 in which two men and two women were loaded into a helicopter that the Turkish Jandarma (an army patrol under control of the Interior Ministry responsible for much of the abuse in southeastern Turkey) referred to as a Cobra. One man was pushed from the helicopter, as were the two women (who were first stripped and humiliated). The second man was spared when he promised to collaborate. He later escaped, and told his story to Human Rights Watch investigators. We have also received reports of strafings of villages with attack helicopters. The sale is wholly inappropriate, and should be refused.

Unfortunately, in this case, the State Department appeared to be using its excellent State Department Country Report on Human Rights as an excuse to send the Cobras. In an exchange with the press on March 14 regarding a demonstration organized by Amnesty International outside of the State Department, a State Department spokesman was asked about the Cobra sale in the context of human rights. His answer was "Well on the human rights problem, I have a wonderful stand by which is the human rights report, that's right, that we just released. And it goes into some detail including detailing our concerns about the Turkish government's actions vis-a-vis the Kurds. I mean it's all there. I can't improve on a years worth of effort on the part of my colleagues in the field and in Washington."

That is all well and good, but an excellent human rights report does not give the Administration license to approve the sale of a weapon known to have been used in perpetrating abuse. In Turkey and elsewhere, a strong country report is not a substitute for an effective human rights policy that uses every means -- including withholding of arms sales and leverage at the international financial institutions -- to pressure abusive governments to end violations.

Russia: The Administration made a contribution to human rights in Russia by speaking plainly about gross abuses, particularly in Chechnya. It noted "The indiscriminate and disproportionate use of force in Chechnya by Russian troops resulted in thousands to tens of thousands of civilians killed, and some 500,000 people displaced." A country that engages in such abuses should not be the recipient of unprecedented amounts of international aid through the IMF, which has now twice made large loans to Russia at the height of slaughter in Chechnya. The United States has not only worked to delay IMF loans or stop them from coming up for consideration altogether, it has been one of the strongest proponents of aid. In this case, the Administration's unequivocal support for the Yeltsin government speaks much louder than its precise description of the egregious abuses of human rights that his government is engaged in.

Amnesty International Testimony

on the Department of State Country Reports on Human
Rights Practices for 1995

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



Presented by

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Amnesty International USA

March 26, 1996

Introduction

Mr. Chairman, thank you for inviting Amnesty International USA to testify before the Subcommittee on International Organizations and Human Rights on the subject of the State Department Country Reports for 1995. We are pleased to be before this subcommittee once again.

Our testimony this year will focus on the disjunction that exists between the reports that the State Department prepares and the actions the Administration has taken. We will also focus on the very important issue of impunity, that is, the failure of governments to prosecute perpetrators, and on the need for the US action against this fundamental obstacle to improvements in human rights protection.

DISJUNCTION BETWEEN HUMAN RIGHTS REPORTING AND US ACTION

Case Study: Bosnia and the Dayton Accords

The first instance of this disjunction that we will treat will focus on the issue of violence against women and the US Government's neglect of its own reporting on this issue in the context of Bosnia. The case study examines the visibility of violations against women in the conflict in Bosnia and the invisibility of women in the Dayton Accords.

The invisibility of women in the Dayton Accords is a stark example of where US Government reporting and US Government practice are on parallel tracks rather than converging ones. The Dayton Accords were negotiated over a three-week period in November with the participation of US Government officials, including the Assistant Secretary of State for Democracy, Labor and Human Rights, John Shattuck. Mr. Shattuck is to be commended for his role in ensuring that human rights provisions form an important part of the Accords. But given the level of violence against women in Bosnia and coming so quickly on the heels of the Fourth World Conference on Women held in September 1995, one can only ask: why are women invisible in the Dayton Accords?

The Country Report on Bosnia for 1995 covers a multitude of horrors. It is hard reading. Included in the violations it reports are accounts of rape, not only citing individual cases but also stating that "They [Serbs] employed rape as a tool of war," and that "Serb forces routinely used rape to accelerate the process of ethnic cleansing." The report goes on to acknowledge that "Statistics are difficult to obtain because of the cultural stigma, especially for Muslim women, that comes with the victim's acknowledgement that she was raped." The report makes it clear that rape went beyond abuse of women as individuals to become a policy of abuse of

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women as women. Bosnia put the issue of violence against women on the world stage in an unprecedented way.

The attack on women as women was one prominent issue among many egregious violations of human rights that occurred in Bosnia. The Dayton Accords address at length the resolution of the conflict and the restructuring of the Republic of Bosnia Hercegovina providing a new Constitution and implementation mechanisms in both the military and civilian spheres, with oversight by international bodies. One would have anticipated that somewhere the Dayton Accords would have addressed the issue of violence against women that marked the conflict it seeks to resolve.

It is not that the Accords do not include any references at a similar level of specificity. They do. For example, in the preamble to the Constitution, it is noted that this document is inspired by the Universal Declaration of Human Rights, by several other human rights instruments and, appropriately, by the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities. However there is no reference to the Declaration on the Elimination of Violence Against Women, which would have been just as appropriate and would have provided both inspiration and guidance to the government of the Republic of Bosnia Hercegovina.

The Dayton Accords establish a Human Rights Commission made up of an Ombudsman and a Human Rights Chamber. There is no reference to any requirements for the persons making up those bodies or their staffs to have any special competence in dealing with human rights issues that are gender-specific. However, the Dayton Accords do provide specific guidelines pertaining to other issues. For example, the Accords establish a Commission for Displaced Persons and Refugees. The work of the Refugee Commission focuses specifically on property rights and details the specific competencies required to resolve problems in that area. The Accords note that the staff shall be "experienced in administration, financial, banking and legal matters." Yet, throughout the Accords, there is no reference requiring competence in addressing the issue of violence against women, or training in protecting women from further violence or in dealing with the victims of that violence. This is true even in the section on refugees, of which an estimated 2 million of the 2.7 million refugees are women and girls.

Not only the emergency in Bosnia, but also The Fourth World Conference on Women focused attention on the issue of violence against women. This conference took place just two months before the negotiations in Dayton. There are nine pages in the Conference's Platform for Action devoted to the issue of violence against women, including violence perpetrated during armed conflicts. The Platform also

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provides guidelines for what governments must do to eradicate it. So there is really no excuse on the part of the US Government for the failure to ensure that the Dayton Accords reflected the reality of abuses against women.

The failure of the US and other governments to address the issue of violence against women prompted a group of non-governmental organizations to write to Ambassador Madeleine Albright. Included with the letter is an Annex of detailed questions that attempt to compensate for what is missing in the Dayton Accords. I ask that that letter and Annex be included with my testimony in the record of these hearings. We ask the support of this subcommittee, once you have had time to review the issues raised, in monitoring the implementation of the Accords to ensure that issues affecting the women victims of violations in Bosnia are addressed appropriately.

General Comments on DOS Reporting on Violations Against Women

The Country Reports include in Section 5 reporting on discrimination on the basis of sex, as one of several categories of discrimination dealt with in that section. And, in general, the Country Reports have been improving in their treatment and integration of human rights violations against women in other sections of the reports. However, it is still the case that human rights violations against women are underreported. For example, the report on China which is otherwise very extensive fails to mention rape and sexual abuse of women in custody. Amnesty International published a report, entitled "Women in China: Imprisoned and Abused for Dissent," in June 1995. In that report, AI states that "There have been many reports of the use of electric batons and sticks to rape or sexually violate and torture women in custody." The report goes on to provide further detail of the phenomenon. It is unfortunate that the State Department failed to report on this specifically.

To remedy the underreporting on violations of women's human rights, particularly instances of violence against women in custody, Amnesty International USA recommends that there be training for US embassy officials on how to assess and gather information on gender-specific human rights abuses. Embassy officers will only report on what they have been trained to assess as a human rights violation. They must receive training in how to assess gender-specific violations. They must also receive training in how to gather information in this area because it may involve going beyond their traditional sources of information and tapping those groups and/or individuals in the country who are looking specifically at what is happening to women.

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Further, those who assess the quality and comprehensiveness of the reports from the field must be trained to ask the question: what is missing? If there is little or no coverage of human rights violations against women, this should raise a flag and a wider net should be cast to gather information.

One area of reporting on violence against women that needs emphasis is violence against women in detention and violence against women in non-conflict situations. Even in the Fourth World Conference on Women this particular aspect of violence is undertreated. Governments in general seem to be less willing to address violence against women in this context than in the context of armed conflict, or even in that of domestic violence. The Department of State Country Reports could be one vehicle to prod all governments on this dimension of state-sponsored violence against women.

Turkey

In last year's testimony, we noted that "human rights is an island off the mainland of US foreign policy...the Country Reports only serve to prevent the integration of human rights into the full range of policy development and implementation as long as they are not used as the basis for a program of action."

That disjunction goes one step further in the case of Turkey. In June 1995 the State Department published a "Report to Congress on Allegations of Human Rights Abuses by the Turkish Military on the Situation in Cyprus." That lengthy report acknowledged that US-origin equipment, which accounts for over eighty percent of the Turkish military inventory, "has been used in operations against the PKK during which human rights abuses have occurred." The report added that "It is highly likely that such equipment was used in support of the evacuation and/or destruction of villages." It is noteworthy that the State Department failed to mention this report in its annual assessment of human rights conditions in Turkey in the 1995 Country Reports. The State Department quoted many other organizations in the Country Report, but not its own investigation!

Internal inconsistencies also exist in the Country Report entry on Turkey. For example, the first page of the Turkey entry states that "The human rights situation [in Turkey] improved in a number of areas, but very serious problems remain." Such language leaves the casual reader with the impression that Turkey's human rights situation is improving, which is not Amnesty International's view. Moreover, that assessment is contradicted by later statements in the State Department's own report. For example consider the following excerpts:

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- "Officials of various government agencies continued to harass, intimidate, indict, and imprison human rights monitors, journalists, and lawyers for ideas which they expressed in public forums."

- "There was an increase in the number of deaths attributable to government authorities due to excessive use of force."

- "In April...the State Minister for Human Rights stated that the police had committed extrajudicial killings."

- "Despite the Constitution's ban on torture, Turkey's accession to the UN and European Conventions Against Torture, and public pledges by successive government to end torture, the practice continue....The HRF and private attorneys reported that there was neither better treatment of those charged under the Anti-Terror Law nor an overall decrease in the incidence of torture in 1995."

The State Department's report on US-made military equipment also shows the disjunction between human rights and US foreign policy. Despite this report, the US Government has done little to prevent such human rights violations from continuing to occur. In fact, the Clinton Administration currently is considering authorizing a sale of 10 AH-IW "Super Cobra" attack helicopters to Turkey.

Amnesty International has called for an immediate end to all sales or transfers of military helicopters to the Turkish government in light of evidence that such helicopters are used to commit human rights violations. Such a cessation would comply with the OSCE Principles Governing Conventional Arms Transfers, which state that "each participating State will avoid transfers which would be likely to be used for the violations or suppression of human rights and fundamental freedoms."

To fully integrate human rights into US foreign policy, Congress should halt the proposed sale of these helicopters. This would show both Turkey and the Executive Branch that human rights are a fundamental cornerstone of US foreign policy, not just the subject matter of a book to be printed once a year and then left to gather dust.

Russia

Overall, the reporting on Russia was very good, comprehensive and detailed. There is sufficient weight given to violations in Chechnya and in Russia's prison system, two areas that deserve a priority of focus. Further while reporting on violations committed by Chechen forces, the report points out that the violations committed by the Russian military occurred on a much greater scale. It is crucial to report on Chechen violations; however, there is also a need to avoid equating the violations on each side when the scale is so grossly slanted toward the Russians.

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The problem is again that the United States does not use what it reports as a basis of action. In fact, it appears not to use it appropriately even at the level of rhetoric. In speaking on the matter, Secretary of State Christopher in effect dismisses Russian actions in Chechnya as an anomaly, an exception to an otherwise good situation, rather than as a fundamental challenge to continued good relations with Russia.

Of course, the Secretary may only be taking the lead of the President, who in a December 11, 1994, news conference expressed hope that civilian casualties would not be too large, but emphasized that Russian action in Chechnya was "an internal affair." The President shocked the human rights community by using language that is more characteristic of the President of China. What is happening to the people of Chechnya is not a matter solely of Russia's internal affairs. For the President to use that language was inexcusable. Only after the leveling of Grozny several months later did the President qualify his statements and avow that, even in internal armed conflict, humanitarian and human rights standards must be observed. By then the damage was done. The Russians are circulating a tape of the December remarks within Chechnya. The implicit message is that the fate of the Chechens is exclusively in Russian hands.

The Administration needs to come out with a clear condemnation of the indiscriminate and excessive use of force by the Russian military which has been so well described in the Country Report. And then it needs to seriously address the violations that are occurring in Chechnya within the context of US-Russian relations. The choice is not between unwarranted interference in the internal workings of another sovereign state or sitting silently on the sidelines. In reality, the Administration has a number of ways it can seek to ensure basic human rights and humanitarian protections in Chechnya. The OSCE agreements (the Helsinki Accords), for instance, provide mechanisms for member states to monitor and pressure other member states to comply with international law, and through which conflicts can be negotiated. To some extent, the OSCE mechanisms have been used in Chechnya, but they were never backed with the full weight of a commitment on the part of the Clinton Administration. If it would make use of the tools available to it, the Clinton Administration could contribute greatly to the creation of a climate in which the tragedies of Chechnya could begin to be addressed.

The Clinton Administration must also insist that the Russian government guarantee access and protection for the international humanitarian agencies and non-governmental organizations which are responsible for ameliorating the

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suffering in Chechnya, and which are one of the few links the Chechen people have with the rest of the world. Access for these organizations has been a serious problem all along: from the beginning of the conflict, when Russian authorities refused to let the International Committee of the Red Cross carry out its international mandated task of visiting and accounting for detainees; to the operation in Pevomayskoye, where the Russian military hindered the work of non-governmental organizations, such as Doctors without Borders who were trying to collect the dead and wounded in the villages; to their action two weeks ago in Sernovdsk when the ICRC was ordered out and threatened with force prior to the Russian assault on that village.

To take these actions on these two fronts would begin to right the record of the Clinton Administration relative to Chechnya.

IMPUNITY

The issue of impunity goes to the heart of efforts to eradicate human rights violations. There must be accountability in order for there to be a full court press against human rights violations. Yet in practice, impunity seems to be the norm rather than the exception.

International Criminal Tribunals

Significantly, but perhaps only because of the scale and nature of the violations, International Criminal Tribunals have been established for the Former Yugoslavia and for Rwanda. With all the difficulties that these tribunals face, it is still encouraging that they exist and, under the effective leadership of Justice Richard Goldstone, have begun to operate. It is important that the United States continue to support the War Crimes Tribunals both financially and politically, particularly as the transition is made from the leadership of Justice Richard Goldstone to his successor. We urge the US Government to do all it can to ensure that the General Assembly votes for sufficient funds for the two tribunals to enable them to function effectively.

It is also encouraging that development of a charter to establish a Permanent International Criminal Court appears to have taken on new life. In Amnesty International's view, the world needs a just, fair and effective International Criminal Court as soon as possible. We have produced a document, entitled "Establishing a Just, Fair and Effective International Criminal Court, detailing our position on the matter. We will be happy to make this document available to this committee.

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As you know, the Preparatory Committee on the Establishment of a Permanent International Criminal Court is currently meeting in New York. We encourage the United States to participate fully in the work of the Preparatory Committee with a view to furthering the establishment of the Court, incorporating the recommendations made to ensure a just, fair and effective institution.

Accountability on the National Level

It is equally important for the United States to urge governments to prosecute within their own borders human rights violators. Again and again, in the Country Reports and in general it is clear that the perpetrators of reported violations are held to no account by their governments. There is an unfortunate consensus among foreign policy makers in the US Government, for the sake of resolution of a current conflict, to encourage or accept grants of amnesty for human rights violators. This attitude is shortsighted at best. Further, there often is a too readily given welcome to the establishment of national commissions for human rights or commissions of inquiry without examination of whether these institutions are simply a facade masking the reality of inaction. The result is that perpetrators in most instances need have little fear of ever paying for their crimes.

Mexico

The United States must not, as it appears to do in the case of Mexico, accept allegations of prosecution without examining the reality of prosecution. The Mexican human rights record is one plagued by impunity. The Government continues to embark on reforms ostensibly aimed at eradicating impunity, but as the DOS report on Mexico accurately notes, these efforts have resulted in "limited success." The report notes that "only 13 policemen were jailed on torture convictions during the year" (emphasis added), citing a report of the Mexican National Commission for Human Rights. The tone of the State Department report implies that the numbers are very low, and Amnesty International welcomes that tone. However, we consider that it is very important to seek specific details about these convictions because of past history on similar allegations of prosecution that seem to have little foundation in fact.

In February 1994 at a hearing on the uprising in Chiapas before the House Western Hemisphere Affairs Subcommittee, the State Department claimed that 45 Mexican government employees were "sentenced to prison for periods of more than 5 years for specific human rights abuses." Amnesty International challenged that assertion. Mr. Chairman, you yourself sought information to support the State Department reporting of those prosecutions, but in fact that

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information was not forthcoming. Although the hearing record claims to contain this information in its appendix, in fact it does not.

We fear that report of the prosecutions of these 13 policeman for torture, which was made by the Mexican Commission and picked up in the State Department Country Reports, may be similarly unsubstantiated. To Amnesty International's knowledge, not one government official has ever been prosecuted under the Federal Law to Prevent and Punish Torture. It would be useful to ascertain the details of these reported convictions: names, dates, charges, etc.

Despite this rather puzzling example to the contrary, the rest of the report on Mexico does make clear that impunity is the norm in Mexico.

Kenya

The United States must also lay the blame for impunity squarely at the feet of the government responsible. In the case of certain African countries, impunity is treated so neutrally that blame for its continuance seems to rest solely on the lack of resources as opposed to official policy. Looking, for example, at Kenya, it is clear that impunity in Kenya is directly related to the attitude of the government. The Country Report on Kenya mentions incidences of political extrajudicial executions, torture, detention and harassment of members of Parliament, the press and human rights organizations, stating that similar actions took place in 1994. It is the case that in each of these categories even where security force members were charged, no further legal action was taken against them. More often it was the case that no action whatsoever was taken. This was not simply due to a lack of resources. Regarding accountability, the government attitude regarding accountability was clearly in evidence when President Moi initially warned the International Criminal Tribunal on Rwanda that he would not respect its requests to extradite persons implicated in the genocide. The report's glosses over the failure of the Task Force on the Reform of Penal Law and Procedures to report after three years about possible measure that could and should be taken to bring Kenyan legislation in line with international standards, despite numerous recommendations by Kenyan and international human rights groups. Therefore, the impression should not be given that impunity exists in Kenya because of a lack of resources when it is clearly a matter of official policy.

Colombia

In the report on Colombia, the State Department obviously agrees with human rights organizations that the situation in that country is "critical" and that "rampant impunity is the

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core of the country's human rights violations." The question is what is the US Government willing to do about it?

In the past week, an Amnesty International report, entitled "Colombia: A Deepening Human Rights Crisis," was distributed to all Members of Congress. The report underscores that the situation in Colombia is taking a turn for the worse.

Amnesty International USA has spoken with and written to Secretary Shattuck, urging the US Government to take the lead in ensuring that there is the appointment of a Special Rapporteur on Colombia during the current session of the UN Human Rights Commission. The letter outlines some of the reasons for such an appointment, and we ask that the letter be included in the record of these hearings. The Administration should heed its own Country Report and not only support a resolution to appoint a Special Rapporteur, but present it before the Commission.

China

Impunity in China is only one of several reasons for which Amnesty International is urging the US Government and other governments to support a resolution on China at the UN Human Rights Commission, currently meeting in Geneva.

The Country Report on China does not highlight the fact that the security forces are acting with total impunity against political dissidents. The fact that the entire political structure including the legal system plays a major role in protecting the security forces from punishment is not analyzed in the report. It is misleading to mention the few instances where police officers were held accountable for brutality towards non-political prisoners and not include an analysis of the general and broader impunity for security forces' actions against political dissidents. In fact, only very few, low ranking officials are brought to justice even when non-political suspects rights are abused.

In the case of torture, AI recently stated in its report on China, entitled "No One Is Safe," that "Torture is endemic in China, despite the government's declared opposition to its use. The authorities failure to introduce safeguards to prevent it or to bring many torturers to justice suggests that, in fact, torture often results from institutionalized practices and official policies." This is the current state in China, where security forces abuse their power with impunity.

Indonesia

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Much the same criticism can be made of how the impunity issue is handled in the Indonesia report. The report focuses on how the government is disciplining the police officers who abused the rights of non-political suspects, but fails to highlight the impunity granted to the security forces, particularly in East Timor, Irian Jaya and Aceh, where security forces abuse the rights of political activists with total impunity.

Amnesty International has repeatedly reported that human rights abuses are seldom properly investigated and few of those responsible are brought to justice. Members of the security forces are effectively granted immunity from punishment for any wrongdoing. Existing procedures for seeking redress or compensation for the victims of human rights violations are also broadly ineffective. The problem of impunity is most conspicuous where the suspected perpetrators are members of the military and the victims are alleged government opponents. Only a fraction of the offenses are investigated and few are ever brought to justice.

Conclusion

In reviewing our testimony before the subcommittee at this time last year, I find that the basic recommendations we made are still in order. I regret to say that we see no marked changes in the Administration's human rights policies that indicate they have followed our recommendations. Our testimony today makes that clear.

In brief, our recommendations are that the Country Reports, in addition to reporting on human rights violations in the various countries of the world, also

- 1) summarize major initiatives by the US Government to prevent the violations it documents;
 - 2) summarize the response of offending governments to major multilateral and bilateral initiatives as well as noteworthy responses to the Country Reports themselves, and finally, and most importantly,
 - 3) be used as a basis for action by both the Congress and the Administration, giving particular emphasis this year to US Government action directed against impunity.
- And finally, we would like to recall the recommendations made within this testimony about the training of US embassy officials in extending their information gathering and assessment of human rights violations against women.

Once again, thank you, Mr. Chairman, for giving us an opportunity to present this testimony to the Subcommittee.

March 26, 1995



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TESTIMONY OF NINA SHEA, DIRECTOR
PUEBLA PROGRAM ON RELIGIOUS FREEDOM
FREEDOM HOUSE
before the
HOUSE COMMITTEE ON INTERNATIONAL RELATIONS
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN
RIGHTS

March 26, 1996

Mr. Chairman, Freedom House congratulates the Subcommittee for holding these hearings on the U.S. State Department Country Reports on Human Rights Practices for 1995.

Freedom House is pleased to have the opportunity to testify at these hearings. While we may disagree with certain methodological approaches or factual nuances, overall we found these Country Reports to be an accurate, good-faith effort to assess human rights practices worldwide.

These Country Reports represent the hard work of hundreds of dedicated Foreign Service Officers and other Department of State personnel. Collectively, the Country Reports are an ambitious and highly important undertaking.

For more than fifty years Freedom House has advocated an engaged American foreign policy that promotes democracy and respect for basic human rights. The Country Reports, in their emphasis on these issues, form the underpinnings for such a policy. Therefore it is important that the nongovernmental organization community and others in the United States with a stake in freedom worldwide have the opportunity to offer constructive critiques of these Country Reports.

In several regions of the world that are of particular concern to Freedom House, including Eastern Europe, the former Soviet Union, and Asia, we found the Country Reports to be accurate and fair. This is particularly true for several countries that are contentious from the standpoint of U.S. policy such as Russia, Ukraine, Croatia, Romania, Slovakia, and Azerbaijan. For several of the most repressive countries in the region, Uzbekistan, Tajikistan, and Turkmenistan, the Country Reports are unsparing in their criticism.

The Country Reports for Asia are also generally accurate and nuanced. While Freedom House will be taking issue with the China Country

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Report on the issue of religious liberties, overall the Country Report serves as an indictment of the regime in Beijing. Also, Freedom House finds the Country Reports to be accurate for two countries that often are placed in a more positive light in the U.S. than would be warranted by their human rights records: India and Singapore.

In past years, Freedom House has presented a broad-ranging discussion of the Department of States' findings. We know this year a number of U.S. human rights organizations will offer extensive and broadly focused commentaries on the Country Reports in their testimonies. Therefore, today, Freedom House will focus primarily on the State Department's coverage of religious liberties.

Two general problems arise in the State Department's coverage of religion: First, the Country Reports in some cases do not adequately distinguish among the various Christian dominations in a particular country, but instead generalize the experience of the dominant religious group that usually has the most freedom.

Second, the Country Reports in some important instances also fail to address the role of society in persecuting religious minorities, concentrating instead on active government involvement in religious intolerance while ignoring the government's own passive role in the face of societal terror, which can be quite extreme. It is worth noting that in the section on "Women" in the Country Reports, societal violence is often the main focus of the reporting. Some country assessments include a section on "Religious Minorities." Those which do tend to be more detailed and comprehensive than those Country Reports that limit discussion on religion to "Freedom of Religion" section; however, where the two sections appear in one report, such as in the case of Egypt, the impact is lost somewhat due to the fact that they are separated by eight other human rights sections. It would be optimal if all Country Reports were to include both sections and present them consecutively.

Both of these shortcomings in the reporting lead to serious distortions in the profiling of countries in the area of religious freedom.

Allow me to give a few examples:

- Ethiopia is a prime example of a Country Report that ignores the plight of a minority religion -- in this case Evangelical Protestants. The Country Report makes no mention at all of the Evangelicals or any other Christian group, limiting its religious discussion to a riot within a mosque that was the result of an inter-Muslim dispute. In fact, reports of the UN Special Rapporteur on Religion, News Network International, Voice of the Martyrs, as well as the Puebla Program of Freedom House provide substantial evidence that Evangelical Christians continue to experience severe persecution by both Muslim and Coptic extremists, while the government at times actively contributes to the persecution and at other times allows others to terrorize the Evangelicals by failing to offer them protection. Evangelicals in Ethiopia have had their eyes plucked out, their businesses burned, their homes and possessions taken from them, their lives threatened.

They have been terrorized by angry and violent mobs, prevented from burying their dead, denied equal access to public facilities and forced to pay discriminatorily high fines.

In a January 17 letter -- a month before the Country Reports were issued -- James Halmo, the Director of the Office of Asylum Affairs at the Bureau of Democracy, Human Rights and Labor, wrote "Religious tension between Christians and Muslims, particularly in certain regions of Ethiopia (most notably the Oromiys and Somali regions) persists, and anti-Christian sentiment is sometimes fueled by historical perceptions of Christians as elite. There is also evidence of strain within the Christian community itself (e.g. between the Orthodox and Evangelical Christian population). Local-level tension between and among Christians and Muslims has led to incidents of harassment, intimidation, and in some cases, violence." While the Halmo letter did not accurately assess the government's own role in the persecution or the particularly vulnerable position of the Evangelicals, it at least acknowledged that there is a problem. The Country Report on Ethiopia, by contrast, is completely silent.

- Regarding Pakistan, the Country Report provides a good recitation of the persecution suffered by minorities under the country's blasphemy laws, but does not adequately address the violence suffered by minorities, particularly Christians, at the hands of Islamic fanatics in society, sometimes with the participation of local police or other authorities.
- The discussion on religion in the Sudan Country Report misses the big picture by failing to address the reasons for the devastating war that has already left 1.5 million dead. The war is being fought over the Khartoum's policy of Islamization. What is taking place in Sudan today is essentially a war against non-Muslims and Muslim minorities. By neglecting to take this into account, the Sudan Country Report only gives sketchy details of the bloody onslaught faced by Christians and other non-Muslims, focussing primarily on the more trivial incidents of harassment, discrimination and arrest. It neglects to acknowledge the element of religious persecution in the discussion of slavery, mayhem and other atrocities. It fails to fully describe the cultural cleansing operation against Christian and non-Muslim boys in the north, in which the boys are taken from their families and forced to convert to Islam. Omitted by the Country Report, the forced Islamization policy was vividly described by the UN Special Rapporteur on Sudan in an account that occurred last May in which soldiers in uniform summarily executed 12 men, women and children at Lobonok for refusing to convert to Islam.
- The discussion of Freedom of Religion in China is weakened by the Country Report's failure to mention the name "Roman Catholic Church," which is banned in China, referring to it instead as the "unofficial" Catholic Church. In doing this, the Country Report misleads. For example, the Country Report states that "the Government permitted some Catholic seminarians" to go abroad for study, when in fact these were not Roman Catholic seminarians but seminarians of Beijing's "Patriotic Catholic

Association." In coining the term "Patriotic Catholic" for the parallel church that the Chinese communists established in the 1950s and which does not recognize Papal authority, the Communist Party was deliberately attempting to confound the public, especially the West, about the true extent of religious persecution in the country. The Country Reports reflect that confusion.

By late 1995, Chinese Christian leaders from the banned house-church movement were stating that they were experiencing the worst persecution since the pre-Deng period in the late 1970s and four Roman Catholic bishops had been detained. An arrest warrant with the names of 3,000 Evangelicals was circulating and more Christians were in jail or under house arrest than any other country in the world. By failing to note this trend, the Country Report allows for only a dim understanding of the extent of religious persecution in China today.

The section on Religion with respect to China is also remiss in failing to discuss the coercive birth control policy in the context of religious freedom. Beijing's draconian one-child population control program is an obvious moral issue that divides the Roman Catholic Church from the Patriotic Association.

The Freedom on Religion section of the Country Reports has important practical applications, particularly in the area of political asylum. Immigration judges around the country have relied on these Country Reports to deny political asylum to a Sudanese Christian activist whose employer was executed for religious reasons; a Pakistani Christian who was acquitted of blasphemy but feared mob retribution; over 20 Iranian Christian clergy who fled last year after four of their colleagues were gunned down by Islamic extremists; numerous Chinese Christian women fleeing coercive abortions and birth control; and one of the most prominent Evangelical preachers from Ethiopia, who was arrested immediately upon returning to his homeland in 1994 as a result of being on a Muslim hit list. It is extremely important that these Country Reports give accurate accounts of religious persecution.

Conclusion

As many of you are aware, since the early 1970s Freedom House has issued its own annual assessment of the status of political rights and civil liberties in every country and territory in the world. Our balance sheet is now regarded as one of the most accurate and most authoritative assessments of the state of democracy worldwide.

As 1995 came to a close, our *Freedom in the World* survey found that the number of formal democracies in the world had increased from 114 to 117. But the sobering reality is that many of these democracies are at risk. In 1995 major obstacles to the consolidation of democracy included: "red-brown" alliances; politicized Islamic fundamentalism; and the practice of market authoritarianism.

Red-brown alliances are emerging as Marxist-Leninist movements abandon calls for class

struggle and instead advocate extreme nationalism. In Russia, the Communist Party is building a solid alliance with ultra-nationalist groupings while its leader, Gennady Zyuganov, embraces traditional fascist rhetoric. A similar trend has emerged in Romania and rump Yugoslavia.

Islamic fundamentalist movements using religion for political purposes have in recent years failed to obtain state power. Yet the willingness of these groups to engage in mass terrorism has the potential to destabilize many states, including Algeria, Egypt, and perhaps Pakistan.

A particularly harmful trend in East Asia is the combination of authoritarian government and the market economy. While some authoritarian governments in the region have made transitions to democracy, Singapore and Malaysia epitomize this market authoritarianism. China and Vietnam are trying to transform their Communist systems according to this model. Meanwhile, some African leaders are pointing to market authoritarianism as a model for development.

To be sure, many free societies are now more durable. The progress of the post-Communist countries in Central Europe in creating an infrastructure of civil society is particularly encouraging. Nevertheless, U.S. engagement is more critical than ever given the multitude of threats to democracy around the world.

STATEMENT OF
MICHAEL POSNER, EXECUTIVE DIRECTOR
LAWYERS COMMITTEE FOR HUMAN RIGHTS
TO THE
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND
HUMAN RIGHTS
COMMITTEE ON INTERNATIONAL RELATIONS
UNITED STATES HOUSE OF REPRESENTATIVES

March 26, 1996

STATEMENT OF
MICHAEL POSNER, EXECUTIVE DIRECTOR
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March 26, 1996

My name is Michael Posner. I am the Executive Director of the Lawyers Committee for Human Rights. Since 1978 the Lawyers Committee has worked to protect and promote fundamental human rights. Its work is impartial, holding every government to the standards affirmed in the International Bill of Human Rights.

Chairman Smith, members of the Subcommittee, we are deeply appreciative to you for convening these hearings and for the important role you play with respect to Congressional consideration of human rights matters. We are pleased to be participating in today's hearing which examines the 1995 State Department Country Reports on Human Rights Practices, and which addresses more broadly the role of human rights in current U.S. Foreign policy.

In my testimony this morning I will first comment on the country reports, and then offer some broader observations and recommendations on the need for human rights considerations to be incorporated as a central element of U.S. foreign policy.

Mr. Chairman, as you know, the Lawyers Committee has paid particularly close attention to the State Department's Country Reports for a number of years. This summer we will publish a book-length Critique of selected chapters of the Country Reports. This year marks the 17th year that the Lawyers Committee has prepared its Critique.

The annual State Department Country Reports were instituted by Congress in 1976. They responded to a need by members of Congress to obtain reliable, comprehensive information on human rights prior to making decisions on military and economic aid. In the early debates leading to the creation of the Country Reports, members of Congress expressed a strong desire to receive thorough reports on human rights conditions around the world from the State Department, to supplement existing

materials from the United Nations, from non-governmental organizations and from the news media.

Twenty years later, the Country Reports are now used in a range of contexts, in addition to Congressional consideration of aid. They have become a highly useful and widely relied on source of information on human rights conditions throughout the world.

The reports also serve an extremely important educative function within the Foreign Service. By requiring reports from U.S. diplomats covering more than 180 countries, Congress has provided these diplomats with a mandate to gather information on the human rights situation in the countries where they serve -- information that might otherwise be ignored or regarded as too sensitive to investigate. Over two decades literally thousands of foreign service personnel have participated in this effort, and it has had a significant effect in sensitizing U.S. diplomats to human rights concerns.

We see the Country Reports as an essential instrument of U.S. human rights policy, and foreign policy generally. Effective decision-making in human rights or in any other area requires accurate and objective information. While human rights considerations must inevitably be weighed against other U.S. interests, including economic, strategic, and political priorities, the process of qualifying and weighing these considerations should only occur after comprehensive accurate and objective human rights information is compiled and studied.

The 1995 Country Reports --A preliminary Assessment

In each of its recent Critiques the Lawyers Committee has commented on the steady improvement in the overall quality of the State Department's Country Reports. The 1995 Country Reports continues this steady trend of improvement.

Our intention in producing the Critique is not to draw up a scorecard of improving and worsening Country Reports. Rather we try to identify patterns, and particularly patterns of weaknesses, declining in number but still stubbornly present in many of the reports. Among the most striking weaknesses that we have identified in the past, and which continue to be problems in the 1995 Country Reports are these:

1. *Even where they include generally accurate data on human rights violations, in some sections of the Country Reports the State Department remains unwilling to condemn them in its own voice or to criticize the perpetrators directly. This is particularly true in reports dealing with "friendly" governments.*
2. *On a related point, the Country Reports frequently cloud the issue of state responsibility for human rights violations by drawing an artificial distinction between governments and ostensibly independent groups beyond their control.*

3. *The Country Reports still fail to adhere consistently to a single, universal standard for judging human rights violations. In many cases they display the influence of policy considerations that should be extraneous to the preparation of the Country Reports.*

It is beyond the scope of our review to speculate on how the internal editing process in the State Department may modify the drafts submitted by embassies. Nonetheless, it is quite apparent that certain of the reports bear the mark of extraneous political considerations.

4. *Despite explicit State Department instructions to the contrary, many of the Country Reports pay more attention to the claims and promises of governments than to their actual accomplishments. This is particularly true of governmental initiatives to protect and promote human rights. While the Country Reports continue to give excessive credence to the claims of government-sponsored human rights bodies, they continue at times to give inadequate regard to the views of local and international human rights NGOs.*

"In every section of the report," the State Department instructs embassies, "it is important to discuss not solely what the country's constitution or laws provide or the government claims, but what happens in actual practice." The *Country Reports* have often paid little heed to this instruction. One problematic area has been in dealing with the large number of official or quasi-official bodies established in recent years by governments with the ostensible mission of protecting and promoting internationally recognized human rights. The *Country Reports* have displayed an unfortunate tendency to take the work and pronouncements of these bodies at face value, and to overestimate their reliability as sources of human rights data in comparison to non-governmental groups. The Lawyers Committee is concerned that such groups are frequently designed more as a response to public and international pressures on human rights, and less as genuine vehicles for protection, and recommends that the authors of future *Country Reports* treat such bodies with greater skepticism.

- 5. *Though the 1995 instructions to embassies on the preparation of the country reports explicitly address judicial independence for the first time, many of the Country Reports still lack a coherent framework in which to discuss issues related to the independence of the judiciary and attacks on members of the legal profession.*

Many incidents affecting lawyers and judges go unreported, or with their full significance undetected. Such abuses do not easily fall under the rubric of "Denial of Fair Public Trial" (section 1e), and their significance is easily lost if they are dispersed in the sections that deal generically with specific violations such as killing, disappearance, torture or arbitrary arrest or detention. The UN Commission on Human Rights has appointed a Special Rapporteur on the Independence of the Judiciary, and future *Country Reports* should make equivalent acknowledgment of the importance of the issue.

State Department Instructions to Embassies

On the plus side, the 1995 instructions to Embassies include a number of positive changes. First there is a much greater emphasis on providing clear practical guidance on how the reports should be structured. There is now a clear requirement for each section of every report to open with a summary statement of the legal requirement, accompanied by a statement of whether these guarantees are respected in practice. This approach should encourage the kind of categorical summary language that has been lacking in the past.

The instructions also put greater emphasis on the problem of official impunity. They also urge greater attention to the reports of various UN mechanisms and regional bodies as well. As noted above, for the first time there is an explicit reference to judicial independence. There is also the framework for a more explicit analysis of the responsibilities of government security forces for specific violations.

The revised instructions also require reporting on governmental attitudes toward international as well as domestic non-governmental organizations. There is some improvement also in the instruction on how the Country Reports should address restrictions on the ability of NGO's to operate freely.

The instructions pertaining to reporting on violations against women is also improved. New requirements stress reporting on cases of domestic violence, on the activities of organized women's groups and on governmental actions to ensure legal rights for women.

Human Rights and Foreign Policy

Despite the generally high level of the Country Reports and the continuing improvements in the reporting process, there is a striking gap between reporting and the realities of foreign policy decision making. Early next month the Lawyers Committee will publish its third quadrennial report on Human Rights and US foreign policy. The report, entitled *In the National Interest*, examines eight subject areas where we see the need for greater attention, by the administration, to strengthening U.S. human rights policy. We have made the report available to each member of this subcommittee. The report is the product of over a year's work, and relied on the close involvement of eight prominent Washington law firms. We hope that each member of this subcommittee will closely review its findings.

I would be glad to answer any questions you have about the report, and its conclusions and recommendations. In closing my testimony this morning I want to include

an excerpt from the introduction to this report.

Twenty years after Congress first introduced the then-heretical notion of human rights into the workings of government, a human rights vocabulary has become an obligatory point of reference for those who make and discuss foreign policy. But does the United States have a coherent human rights policy? It is self-evident that the US government has a defense policy, and that it has a trade policy. But does it have a human rights policy, one that functions system-wide throughout the administration?

It would be more accurate to say that certain sections of the State Department have a human rights policy, one that has slowly taken root in some nooks and crannies of other government agencies. This policy is reflected in the State Department's annual volume of *Country Reports* on human rights conditions around the world. The *Country Reports*, which are mandated by law, offer lawmakers the factual basis on which to factor human rights considerations into their broader decisions about foreign aid, restrictions on trade and policies related to the multilateral development banks. To the degree that a human rights policy exists, it is on the whole a better and more enlightened policy than ever before. It influences the character of domestic debate about international issues and the specific quality of bilateral relations with a large number of countries. It is visible in the emerging desire to see international human rights and criminal enforcement as important means of bringing about a stable world order.

But the human rights considerations that inspire the *Country Reports* are regularly shunted aside where they conflict with other stated US interests. It would be unthinkable for the defense policy of the Pentagon to be routinely contradicted by the words and actions of other government agencies. It would be inconceivable for other cabinet officials to ignore or openly undercut the Commerce Department's search for economic and trade opportunities. But that is exactly what happens in the case of human rights. For example, when Commerce Secretary Ron Brown went to China in August 1994, he pointedly told reporters that he was there "to promote the commercial interests of the United States" — a calculated snub to proponents of a higher profile on human rights. Energy Secretary Hazel O'Leary, also visiting China a few months later, went even further. When asked if she intended to "leave the issue of human rights to the other departments of government that are charged with that responsibility," she replied that this was "a very fair interpretation" of her position. It is hard to imagine the State Department — which remains, after all, the hub of all foreign policy, not just human rights policy — making similar public statements undermining the efforts of other cabinet officials.

Those who contest the primacy of human rights in policy making dismiss it as utopian, sentimental, preachy. Political pragmatists seek to distance themselves from President Jimmy Carter's celebrated appeal to human rights as the "soul" of US foreign policy. However, while the belief in universal human rights is rooted in the presumption of shared moral values, human rights violations occur and flourish in more mundane soil

— where governments are unable or unwilling to rule by non-violent means. Such governments make unreliable diplomatic and trading partners; the consequences of their abusive conduct are national and regional instability and conflict.

Far from being a "soft" or purely moral concern, nothing is more hard-headed than the search for a human rights policy designed to serve the national interest. In the turbulent and fragmented world of 1996 and beyond, the national interest of the United States demands stability, the avoidance of conflict, and shared prosperity through global progress on common social and economic principles. It is those who argue for the unfettered pursuit of commerce, or for the primacy of traditionally defined national security interests, who lack hard-headed realism and who are out of step with the needs and demands of the real world at the close of the 20th Century.

As a matter of domestic law, US foreign policy is predicated on holding other countries uniformly to universal human rights standards. But the credibility of the United States suffers greatly if it fails to present a coherent and consistent administration-wide human rights policy. Time and again, abusive governments have been happy to play off one part of government against another. In Bosnia and China, and to a lesser extent in Egypt and Turkey, these divisions have been played out in public, with consequent damage to US credibility. And human rights violations have often worsened, leading to fresh cycles of instability.

There are other reasons, too, for questioning US leadership on human rights. While President Clinton has vowed a "ceaseless struggle to preserve human rights and dignity," the reality of US policy is often less encouraging. For example, almost half a century after the adoption of the Universal Declaration of Human Rights, the credibility of the United States as a defender of international law has been seriously damaged by its decision to question one of the basic rights set forth in the declaration — the right to housing. In the lead-up to the United Nations World Conference on Human Settlements (Habitat II), to be held in Istanbul in June 1996, the US delegation has been instructed by the State Department to "make clear for the record that the US does not recognize the international human right to housing."

U.S. global leadership in 1996 and beyond cannot be taken for granted. It is essential to arrest the perception in the outside world that the United States considers itself bound by a different and more elastic set of rules than the rest of the international community. That perception is fueled by such actions as attaching onerous conditions to human rights treaty ratification, or threatening not to place U.S. troops under UN command in multilateral peacekeeping operations. It is deeply damaging to the US national interest. True, we may now live in a one-superpower world. But US conduct at times contributes to a view of the United States not as a global leader by virtue of its exceptional moral condition, but as an isolationist maverick deeply insecure about its role in the world.

This report by the Lawyers Committee for Human Rights argues that the consistent pursuit of human rights is in the long run not only quite compatible with, but likely to enhance, other US national interests that have traditionally been accorded a higher priority. The report identifies two paramount and intertwined national interests: first, the enlightened pursuit of long-term international stability, with its attendant benefits for national security, commerce and other established foreign policy imperatives; and second, the maintenance of a leading role for the United States in the international community's search for a global order based on the rule of law.

December 14, 1996

Ambassador Madeleine Albright
Permanent Representative to the UN
U.S. Mission to the UN
799 United Nations Plaza
New York, New York 10017

Dear Ambassador Albright,

We write to you, hopeful that the Dayton Accords will bring peace, but still deeply concerned over the atrocities and human rights abuses inflicted upon the civilian population of Bosnia-Herzegovina during the conflict in that country. Women have suffered horribly in this war and terror. They watched their spouses, children, and friends abused and often killed before their eyes, and lost their homes, property, and often, hope.

We believe the Dayton Peace Accords on Bosnia-Herzegovina, at long last, offer the prospect of restoring that hope. To achieve this, it is crucial that those executing the Accords take action to implement the concerns of the women of Bosnia-Herzegovina. Women and girls constitute the vast majority (in some estimates, up to 80%) of the nation's 2.7 million refugees. A war of 'ethnic cleansing' is waged against civilians; it is, in significant part, a war against women.

Strikingly, women were invisible in Dayton. With this letter, we seek to draw your attention to some of the issues of concern to women and to which serious attention is critical in the implementation of the Accords.

We are very pleased to see that the Dayton Accords incorporate human rights in the most prominent manner of any peace agreement in recent memory. We are grateful to you for your continuing attentiveness to these issues and your singular, decisive support for the war crimes tribunal, for the prosecution of rape and gender related abuses and for the principle that there can be no lasting peace without justice. In our view, the prompt and proper implementation of the Accords offers an opportunity to bring at least a measure of help to the victims and survivors of this conflict. Help is late, but we address this to you in the hope that its results will be lasting.

The attached Annex "Women and the Bosnian Peace process: Preliminary Questions on Ten Issues of Concern", sets forth a number of our specific concerns about the implementation of the Accords in ways that will address the very real experiences of Bosnian women in this conflict and the peace process and reconciliation that is to follow.

We see these suggestions as a beginning. We hope, as you suggested, to continue a dialogue with you on ways best to implement our concerns.

Sincerely,

Felice D. Gaer
The Jacob Blaustein Institute
for the Advancement of Human Rights

Gay J. McDougall
International Human
Rights Law Group

Patricia L. Rengel
Amnesty International, USA

Marjorie Lightman
International League
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Charlotte Holstein
The American Jewish
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Susannah Sirkin
Physicians for Human
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Firuz Kazemzadeh
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Charlotte A. Bunch
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Jean Gore
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Anne T. Goldstein
Member of ABA Task Force on War Crimes
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Dorothy Q. Thomas
Joanna Weschler
Human Rights Watch

*for purposes of identification only

ANNEX
WOMEN AND THE BOSNIAN PEACE PROCESS
PRELIMINARY QUESTIONS ON TEN ISSUES OF CONCERN

- (1) The Responsibilities of the High Representative; the official in overall charge

The overwhelming proportion of refugees are women and girls. The High Representative will, inter alia, be responsible for their return, rehabilitation, security and participation in Bosnia's future. What actions will the High Representative take to protect past victims of sexual assault and other human rights and to protect them from new abuses? Will the Deputy High Representative, who, unlike the High Representative, actually will reside in Bosnia, understand the gender issues, and have experience in dealing with a population of traumatized survivors? Will he/she have a strong record in support of human rights, including the human rights of women? Will he/she be empowered to instruct those responsible for refugee return and rehabilitation to address gender-specific concerns that arise?

- (2) Training and Rules of Engagement of US Military and Civilian Forces in IFOR:

What training will the U.S military and civilian forces receive? (a) regarding their own behavior (not only to avoid Okinawa-type situations, but also to prevent other behavior exploitive of women in post-war situations) and (b) regarding their ability to relate effectively to traumatized populations, particularly the returning sexual assault victims? Are U.S. military personnel participating in IFOR required to act in accord with American law and are they bound by the Geneva Conventions and Protocols? The Conventions are not mentioned in the Dayton Accords; the IFOR rules of engagement are much talked about but have not been made public to our knowledge. We would be pleased to review them.

- (3) Prosecution of War Criminals

The Dayton Accord require all parties to "cooperate fully" with the investigation and prosecution of war criminals. The statute of the International Criminal Tribunal for Former Yugoslavia imposes a similar duty on all governments to "comply" in the arrest and surrender of indicted war criminals. U.S. officials have repeatedly stated that IFOR will be authorized to arrest any indicted war criminals it encounters or who interfere with its mission. What instructions have been issued to ensure this will take place and to respond to requests from the Tribunal to assist in investigations, secure or preserve relevant evidence to protect witnesses? What special efforts will be made to ensure full cooperation of IFOR with the Tribunal in its efforts to

prosecute rape and sexual assault? Will IFOR personnel be trained so that they know (a) what evidence is; (b) how to preserve it; and (c) how to protect against continuing war crimes?

- (4) IFOR and the Departure of Foreign Forces in 30 days; avoiding complicity in the escape of war criminals

The "foreign forces" have been responsible for many of the worst human rights atrocities (including those against women). One need only look at the reports of former UN Special Rapporteur Tadeusz Mazowiecki on human rights abuses attributed to the forces of Arkan/Seelj (on the Serb side or those attributed to the Mujahedin (on the Bosnian side). We are concerned that the departure of these foreign forces must not be an escape avenue for war criminals in their ranks and that U.S. forces are not complicit in any such "escape". What will be the role of US forces in apprehending these and other war criminals? In cooperating with the war crimes tribunal in addressing this matter? This matter is urgent in view of the 30-day deadline.

- (5) Protecting the Security of Women: From sexual assault, and other violence against women and related trauma

This problem has many dimensions.

(a) Women survivors of rape and sexual assault in the war are potential witnesses for the War Crimes Tribunal in the Hague. They must be protected and feel protected from intimidation and threats so they will be able to come forward to testify in The Hague;

(b) Returning refugees will require protection in refugee camps, en route back as well as at home--from military, police and local authorities, as well as at home from demobilized spouses,

(c) It is probable that there will be an escalation of domestic and community violence in the post-war situation in Bosnia as demobilized soldiers and victimized men take out their aggressions at home against the members of their own families.

Properly addressing these issues requires (a) clear instructions to the participants in IFOR as to their duty to protect Bosnian citizens and (b) training in both protection strategies and in rehabilitative and psychological counselling of both international personnel and local officials. What measures will be taken to ensure a common strategy and the combined responsibility of: The High Representative, the other political supervisors of the IFOR mission, NATO military forces, UN police monitors, UNHCR and other humanitarian personnel, the personnel of the Victim and Witness unit of International Criminal Tribunal, and NGOs, domestic and foreign. The following questions are among those relevant: (1) Will OSCE human rights monitors include persons with expertise in investigating and working with victims of sexual assault? (2) Will there be training by professionals already deeply familiar with the trauma experienced by the specific populations? (3) Will women be appointed to the 14-person Human Rights Chamber? (4) Will the police monitors establish violence crisis centers within local police stations as they are re-

established, and in other ways assist local authorities in dealing the problem of post-war domestic violence?

(6) Return of Refugees and Displaced Persons

What actions will the High Representative and other responsible officials take to protect the right to asylum- i.e., not forcing people back when they fear harm upon their return? What measures will be taken to Ensure women independent legal status and right to own property and/or obtain just compensation (as provided in the Accords) in their own names. This is particularly important because so many women will be returning alone to their homes.

(7) Non-discrimination in Reconstruction and Humanitarian Aid

In view of the reports that conditions have been attached to humanitarian aid by some donors (e.g. Saudi Arabia and Iran) in Bosnia, and with special reference to the effect of these conditions on women (employment, dress, decorum, free association and expression), how are the High Representative and other reconstruction authorities going to assure that women are not doubly victimized by such "aid"? What will ensure non-discrimination in aid, on the basis of either ethnicity or gender?

(8) Participation of Women in the Electoral Process

What will ensure that women will participate actively and publicly in the electoral process and in local reconciliation processes? What special efforts are being made to recruit women for the OSCE election monitoring process, strengthen local women's NGOs, and establish gender representation in civil society organizations and government organizations?

(9) Police Monitoring

In view of the experiences in the Krajina, where Serb soldiers donned police uniforms, kept their arms and terrorized civilians, what efforts will be made to disqualify persons engaged in war crimes and/or past sexual assault from serving in local police? Will women be fully represented in all ranks of the local police and international police monitors?

(10) Ensuring Respect for Human Rights

The Dayton Accords create a series of institutions (a Human Rights Commission, consisting of an Ombudsman and a Human Rights Chamber) to investigate and report on human rights abuses and to hold their perpetrators accountable. In addition, the Accords invite monitoring, missions, and offices to be set up by the OSCE, the UN High Commissioner for Human Rights, and other international and regional human rights bodies. To support these mechanisms, what instructions will be given to IFOR and other international personnel to report any abuses it witnesses and otherwise to co-operate with human rights bodies, the International Criminal Tribunal in The Hague, and other authorities? At the same time, what measures will be established to safeguard the identities of persons who present testimony about rape and sexual assault and provide the other protections cited in point (5)? What measures will ensure that women participate fully at all levels of these human rights mechanisms?



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29 February 1996

Assistant Secretary John Shattuck
Bureau of Democracy, Human Rights, and Labor
Department of State

Via facsimile

Dear Mr. Secretary,

It was a pleasure to speak with you the other day about the upcoming 52nd Session of the United Nations Human Rights Commission. I wanted to follow up on our brief discussion on Colombia.

In 1994, the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary and arbitrary executions recommended that unless the human rights situation in Colombia "improved radically in the near future," the Commission should appoint a Special Rapporteur. A full year has lapsed, the Government of Colombia has made very little progress in implementing the recommendations made by the thematic rapporteurs, and the situation has deteriorated even further. The time has come for the appointment of the Special Rapporteur, a conclusion with which both thematic rapporteurs agree.

It is important that the United States take the lead on human rights in Colombia and promote a resolution calling for a Special Rapporteur. The United States, because of its importance to Colombia, should approach human rights at least as vigorously as it has approached the problem of drug trafficking. The Clinton Administration would not find itself alone on this issue. On January 25, close to fifty Colombian non-governmental organizations issued a joint declaration urging the designation of a Special Rapporteur. Colombian parliamentarians have publicly called for a Special Rapporteur as well as Members of the US Congress.

You saw at our meeting the agreement of NGOs here about this. This issue, as you know, is not about "punishing" Colombia. As the Special Rapporteur on extrajudicial, summary or arbitrary executions will state at the Commission, "the appointment... should not be seen as a hostile measure against the Government of Colombia but as a measure commensurate with the seriousness of the human rights situation." It is time for the United States to call for a Special Rapporteur on Colombia at the 52nd Session of the UN Human Rights Commission.

Thank you very much for your attention to this matter.

Sincerely yours,

Patricia L. Rengel
Acting Washington Director

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