

U.S. State Department 2004 Human Rights Reports

Testimony to U.S. House of Representatives

Tom Malinowski, Washington Advocacy Director for Human Rights Watch, testified before Congress regarding the 2004 State Department Country Reports on Human Rights Practices. Malinowski testified that this year's reports live up to the tradition of candid and comprehensive reporting the Department has established over the years. He draws particular attention to the reports on China, Nepal, Burma, Uzbekistan, Turkmenistan, Egypt, and the Sudan, as well as the U.S. practice of "extraordinary renditions" of terror suspects to countries which the State Department condemns for torture of detainees.

March 18, 2005 Testimony

Darfur

Perhaps the most troubling part of these reports, Mr. Chairman, is the description of continuing human rights abuses in the Darfur region of Sudan. There is nothing inaccurate about the description itself. On the contrary: What should make us angry is that the description of massive atrocities committed against civilians in Darfur is absolutely true, and absolutely unchanged from the report the State Department issued last year.

We have known for more than a year what is happening in Darfur. For more than a year, the Sudanese government and the Janjaweed militias it supports have been killing civilians in Darfur or pushing them from their homes. For more than a year, the Sudanese air force has been bombing villages in Darfur to support this brutal campaign. For more than a year, we have been saying that Darfur should not become another Rwanda. Speeches are given; resolutions are passed; promises are made. And yet, the violence continues. The most the world has been able to muster for the people of Darfur is a small force of only 2,000 troops sent by the African Union, who have a mandate to observe crimes, but not to stop them. The kinds of sanctions that might convince the government of Sudan to change course have not been imposed. The UN Security Council has not even managed to ban arms shipments to Khartoum. Meanwhile, probably over 100,000 civilians have died as a direct result of the Sudanese government's actions. Almost two million people have been internally displaced.

Compare the world's lethargic response to what the United States has called genocide in Darfur to its immediate response to the Tsunami disaster in Asia. Somehow, when nature kills people, we do not hesitate to come to their aid. When governments kill people, we throw up our hands in despair and say it's all too complicated; nothing can be done. And then, ten years later, we attend solemn ceremonies of remembrance, express regret, and promise that next time, the lessons will be learned and people will be saved.

The truth is, a great deal can be done right now to help the millions of people in Darfur who are still alive and who still hold out hope of returning to their homes in peace. The key lies in placing a military force on the ground with the size and authority to protect civilians, in stopping aerial bombardment by the Sudanese air force, in imposing sanctions on the perpetrators until the price they pay for continuing atrocities is greater than the perceived benefit, and in ensuring that those responsible are prosecuted for their crimes as quickly and credibly as possible.

The U.N. Security Council is now debating a resolution that, frankly, does far too little. The draft resolution does not call for the AU force in Darfur to be increased or to protect civilians. It imposes targeted sanctions on government officials and militia leaders responsible for the violence, but only for acts committed after the passage of the resolution, not for the crimes that have already claimed so many lives. It endorses a purely consensual no-fly zone, without providing for any military enforcement or even active monitoring of Sudanese air force flights in Darfur. It does not resolve the issue of how perpetrators of atrocities in Darfur should be prosecuted.

There are plenty of excuses for the weaknesses of this draft resolution. The Bush administration, which, to its great credit, would like tougher action on Sudan, will say that China and Russia are blocking it at the Security Council. That may be partly true. But that just means the United States needs to make Darfur a higher priority in its engagement with key allies as well as with Russia and China. Darfur was not prominent on President Bush's agenda during his trip to Europe and it does not appear to be high on Secretary Rice's agenda during her trip to China this week. Unless the President and the State Department make the maximum effort, the apathy and opposition of others will not be a sufficient excuse for weak action. Moreover, there is one issue on which the United States is obstructing swift action by the international community. That is the issue of justice for those responsible for the killing in Darfur.

Justice is a moral imperative in Darfur. It is also a practical imperative. Justice is one of the most effective targeted sanctions we can apply to the Sudanese leadership. For once leaders are indicted by an international court, they will not be able to travel without fear of arrest; they will find it much harder to move their money around outside Sudan or to have any dealings with other governments. Indictment, therefore, would be the practical equivalent of a travel ban or asset freeze, but unlike those measures, it never expires; it remains in place at least until its targets stand trial. An effective process of accountability could also deter further violence. The more seriously officials in Khartoum take the prospect of prosecution by an international court, the more likely they are to refrain from further killing to avoid calling the court's attention to themselves. Lives can be saved, therefore, if such a process can be started swiftly. Lives may be lost if there is delay. Right now, there is only one institution in the world that can move immediately to investigate, indict, and prosecute Sudanese officials. That institution is the International Criminal Court (ICC) in the Hague - so long as Sudan is referred to it by the UN Security Council (since Sudan is not a party to the ICC treaty, this court can only prosecute crimes committed there with a Security Council referral).

As you know, the Bush administration has profound concerns about the ICC. It has proposed as an alternative the creation of a brand new international court for Darfur, to be housed alongside the International Criminal Tribunal for Rwanda in Arusha, Tanzania. The problem with this alternative is that, based on past experience with such courts, it would take at least a year to recruit the judges, prosecutors, and staff needed to establish a new Darfur Tribunal. In the meantime, the Sudanese government could continue its killing spree without an existing international court looking over its shoulders. It could take the time to burn documents, kill off witnesses, clean up mass graves. This delay will cost lives. It will make the ultimate task of prosecuting the killers harder.

Creating a new court for Darfur would also cost, by the State Department's estimation, about \$100 million a year for the next five years. Because most U.S. allies are already assessed to support the ICC, none are likely to contribute a penny for a new tribunal. Realistically, the United States would have to bear the entire cost. That means the Congress would have to be prepared to allocate half a billion dollars over the next few years simply to avoid having to use the ICC in Darfur - half a billion dollars for a superfluous court that could instead be used to equip peacekeepers to protect civilians in Darfur, or to buy food and medicine for desperate refugees. In addition, a Darfur-only court would expire after several years, as all ad-hoc, single issue tribunals eventually do. This means that the killers in Khartoum could wait it out.

The ICC, on the other hand, has the capacity to begin investigating and prosecuting and deterring crimes in Darfur right now. The ICC is a permanent court -- it cannot be outlasted by indicted Sudanese officials; if they hide, it will be pursuing them till the day they die. It is fully funded by other nations. What's more, the United States could support employing the ICC consistent with its general objections to this court, because the ICC would be acting in this case in the manner the United States has consistently said it could support - via a referral from the UN Security Council, where the United States has a veto.

Wherever one stands on the merits of U.S. participation in the ICC, this court is clearly the best option for saving lives in Darfur. And in a moment of crisis such as this, that should be our only consideration. The State Department has argued that its alternative is better because it would empower Africans to settle this problem in an African-based court. But the African members of the Security Council have made clear that they themselves would prefer Darfur to be handled by the ICC. Twelve of fifteen Security Council members support using the ICC; none have endorsed the administration's alternative. The administration's reluctance to accept an ICC referral, therefore, is holding up a resolution that could bring some help to the people of Darfur. Were the administration open to compromise on this issue, it would be in a much better position to win its allies' support for an even stronger resolution, with real sanctions and a more effective peacekeeping force. My understanding is that discussions are underway on a deal that would let ICC referral go forward. I urge all members of the Committee to encourage the administration to seek such an outcome as quickly as possible.

Rendition/Torture

Mr. Chairman, a second troubling issue raised by the human rights reports is the one I alluded to at the start -- the reports call into question practices in which the United States itself has engaged since September 11th. One of those practices is the so called "extraordinary rendition" of terror suspects to countries that routinely torture prisoners. Consider what the State Department reports say about some of the countries to which the United

States renders terror suspects. They say that torture is used "frequently" by security services in Syria, including methods such as electrical shocks, pulling out fingernails, forcing objects into the rectum, beating, hyperextending the spine, and using a backwards bending chair to asphyxiate the victim or fracture the victim's spine. They say that in Egypt, "a systematic pattern of torture by security services exists," including beating victims with fists, whips and metal rods, electrical shocks, and sexual assaults. They say that authorities in Uzbekistan "routinely tortured, beat, and otherwise mistreated detainees to obtain confessions" using suffocation, electric shock, rape, and beating.

These reports make clear that the Bush administration knows perfectly well what goes on in the prisons of countries to which it sends terror suspects. It knows perfectly well that torture is standard operating procedure in these places and that anyone delivered to the custody of their security services is likely to be tortured. So how does the administration defend this practice? It says that it doesn't send anyone to a place like Syria or Egypt unless Syria or Egypt promises not to torture that person. If anyone here today thinks we should believe such unenforceable promises from countries that systematically torture people, please let me know.

As it is, we have strong evidence that several of these countries, including Syria and Egypt, have already violated the assurances they have given the United States in these cases. And those involved in the process privately acknowledge the assurances are worthless. As one Arab diplomat quoted in the Washington Post today said: "It would be stupid to keep track of [rendered prisoners] because then you would know what's going on. It's really more like don't ask, don't tell." An American official quoted in the same story said: "They say they are not abusing [rendered prisoners], and that satisfied the legal requirement, but we all know they do."

How can our government speak with authority about the evil of torture in countries like Egypt and Syria and Uzbekistan when it is knowingly making deals with the worst elements of those regimes to send people to the very dungeons where they torture prisoners? This practice diminishes America, Mr. Chairman. And it does not strengthen America's security -- for one would have to be truly naive to trust the reliability of intelligence obtained in Syrian or Uzbek torture chambers by intelligence services that have their own agendas to promote. The administration must stop this practice. If it does not, the Congress should. The House already took one step in this direction earlier this week when it voted to prohibit the expenditure of funds for any purpose that contravenes the Torture Convention (as rendition to torture clearly does). I urge the Congress to support legislation that explicitly forbids this practice.

A similar problem highlighted by the State Department reports relates to the methods that the United States has used to interrogate suspects in American custody. In chapter after chapter of these reports, the State Department candidly describes some of these methods as torture. The chapter on North Korea, for example, condemns as torture methods of interrogation such as "prolonged periods of exposure"; "humiliations such as public nakedness;" "being forced to kneel or sit immobilized for long periods;" and "being forced to stand-up and sit-down to the point of collapse" (practices referred to in the U.S. military as "stress positions.") The chapter on Libya condemns as torture the use of dogs to threaten detainees. The chapter on Iran condemns as torture "prolonged solitary confinement with sensory deprivation," "long confinement in contorted positions," and "sleep deprivation." The chapter on Tunisia condemns as torture "submersion of the head in water" (which is often referred to as "waterboarding.") All these methods have at one point or another been approved by administration officials, including Secretary Rumsfeld, for use on detainees in Guantanamo, in Iraq, in Afghanistan, and in CIA custody around the world, where they clearly contributed to abuses that have done great harm to America's standing in the world. When they are used in places like Libya and North Korea, the State Department agrees that they are torture. Yet their use by the Pentagon and CIA has never been repudiated by the administration; no one has acknowledged that it was wrong; no one has pledged that it will not be tolerated again.

Once again, the Congress must do what the Executive Branch apparently will not. The Congress should establish clear standards for interrogating detainees that are consistent with the laws and treaties of the United States. The best way to do that is to mandate compliance with the standard that has guided America's armed forces successfully in the past, the standard that reflects the armed forces finest values -- the standard contained in the U.S. Army's Field Manual on Intelligence Interrogation. The fundamental point is that we need the moral clarity that is provided by these State Department human rights reports and by the efforts of the President and the State Department to condemn human rights abuses throughout the year. But the United

States needs to project more than moral clarity – it must maintain moral authority to promote a more humane and democratic world. That requires consistent leadership abroad and a sterling example at home.

“How can our government speak with authority about the evil of torture in countries like Egypt and Syria and Uzbekistan when it is knowingly making deals with the worst elements of those regimes to send people to the very dungeons where they torture prisoners?”

- Tom Malinowski, Washington Advocacy Director for Human Rights Watch

From: <http://hrw.org/english/docs/2005/03/18/usint10347.htm>