

**Statement of Harold Hongju Koh
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Before the House Committee on Foreign Affairs
regarding**

**The 2006 Country Reports on Human Rights Practices and the
Promotion of Human Rights in U.S. Foreign Policy**

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Thank you, Chairman Lantos and Members of the Committee, for inviting me here today.

I am pleased to appear again before this Committee to testify regarding the state of our government's human rights policies, and the recently issued 2006 State Department Country Reports on Human Rights Practices. As you know, I have served our country in both Republican and Democratic Administrations, and am now Dean and Gerard C. & Bernice Latrobe Smith Professor of International Law at the Yale Law School, where I have taught since 1985.¹

In presenting the 2006 Human Rights Country Reports several weeks ago, Assistant Secretary of State for Democracy, Human Rights and Labor Barry Lowenkron forthrightly called 2006 "the year of the pushback." He accurately stated, "As the worldwide push for greater personal and political freedom grows stronger, it is being met with increasing resistance from those who feel threatened by change."² What he did not fully analyze, however, is precisely why that pushback is occurring.

Let me suggest that this global pushback can be traced in part to the world's reaction to the current Administration's obsessive focus on the War on Terror, which has taken an extraordinary toll upon our global human rights policy. The 2006 Country Reports on Human Rights reveal that six years of defining our human rights policy through the lens of the War on Terror have clouded our human rights reputation, given cover to abuses committed by our allies in that "war," and blunted our ability to criticize and deter gross violators elsewhere in the world. Unnecessary, self-inflicted wounds—such as our counterproductive policies on Guantanamo, torture, denial of habeas corpus for suspected terrorist detainees, military commissions, the International Criminal Court,

¹ I served as an Attorney-Adviser at the Office of Legal Counsel of the U.S. Department of Justice from 1983-85, and as Assistant Secretary of State for Democracy, Human Rights and Labor from 1998-2001. A brief *curriculum vitae* is attached as an appendix to this testimony. Although I sit on a law school faculty as well as on the boards of numerous organizations, the views expressed here are mine alone.

² See On-The-Record Briefing on the State Department's 2006 Country Reports on Human Rights Practices by Assistant Secretary of State for Democracy, Human Rights and Labor Barry F. Lowenkron, March 6, 2007 <http://www.state.gov/g/drl/rls/rm/2007/81468.htm#bfl>

and the U.N. Human Rights Council—have gravely diminished our standing as the world’s human rights leader.³ Our government’s shortsighted actions have undermined America’s longstanding commitment to human rights principle as a major source of our “soft power.” In the next few years, this Administration and the next must recognize this failing and return to a consistent set of human rights policies that are true to our enduring principles.

Let me analyze first, the ways in which our approach to the War on Terror has undermined the strength and effectiveness of the Administration’s efforts to promote human rights over the past few years; second, troubling trends in the Country Reports, particularly in the conduct of certain governments that can be traced to the United States’ weakened human rights efforts; and third, ways in which this Administration and the next should reverse that trend, through enhanced bilateral efforts and increased engagement with multilateral human rights mechanisms.

I. How the War on Terror Has Undermined Our Human Rights Policy

At dawn of the 21st century, a viable global human rights strategy for the United States seemed to be emerging, which combined four factors:

1. *Diplomacy backed by Force*: Diplomacy backed by force in service of human rights;
2. *Power based on Principle*: A recognition that consistent adherence to human rights principles and standards constitutes a major source of our “soft power;”
3. *A Simple Approach to Human Rights Enforcement*: based on telling the truth, and taking a consistent approach to the past, present, and future: promoting accountability, addressing ongoing abuses, and forestalling future abuses through preventive strategies such as democracy-building; and
4. *Using Cooperation Among Global Democracies to Solve Global Problems*: encouraging both international and national and public and private institutions to work together to set universal standards for the consistent implementation of human rights and humanitarian norms.⁴

Tragically, the last six years have deeply disrupted that strategy. As evidenced by Afghanistan and Iraq, we have shifted from diplomacy backed by force to force backed by diplomacy, seeking to build democracy from the top down rather than from the bottom up. The United States has used hard power at the expense of its commitment to human rights principle as a source of soft power, and now finds itself in a position of military overstretch.

³ The Introduction to this year's reports indirectly acknowledges this, stating "We recognize that we are writing this report at a time when our own record, and actions we have taken to respond to the terrorist attacks against us, have been questioned," and agreeing that "U.S. laws, policies and practices governing the detention, treatment and trial of terrorist suspects have evolved considerably over the last five years."

⁴ This approach is elaborated more fully in Harold Hongju Koh, "A United States Human Rights Policy for the 21st Century," 46 *Saint Louis Univ. L.J.* 293 (2002).

As I elaborate below, we now fail to tell the full truth about our human rights conduct, or that of our allies in the War on Terror. Increasingly, we avoid application of universal standards: whether the rules against torture and cruel inhuman or degrading treatment or Common Article Three of the Geneva Conventions. But the United States cannot lead the world with moral authority unless we hold ourselves to the same high standards that we demand from others. The U.S. has put its own human rights practices center stage by promoting double standards for our allies, and arguing in favor of “law-free zones” (like Guantanamo), “law-free practices” (like extraordinary rendition), “law-free persons” (who are dubbed “enemy combatants”), and “law-free” courts, (like the system of military commissions, which have failed to deliver credible justice and are currently being challenged in our courts for the recent stripping of the writ of habeas corpus).⁵ Through these misguided policies, the Administration has shifted the world’s focus from the grotesque human rights abuses of the terrorists to America’s own human rights misconduct, leaving other, equally pressing issues elsewhere ignored or unaddressed.

Similarly, we have abandoned a consistent approach to past, present, and future abuses. By unwisely opposing the International Criminal Court (ICC), we have lost our focus on accountability for past abuses. The Bush Administration has regularly opposed efforts to redress human rights abuses through civil liability under the Alien Tort Claims Act, although the Carter and Clinton Administrations had filed briefs in support of victims’ claims. Ironically, despite its avowed hostility toward international criminal adjudication, in the past few years, the Bush Administration has retreated from outright opposition toward international criminal adjudication to a de facto policy of benign coexistence with mechanisms of accountability. Recently, for example, the Bush administration consented to the U.N. Security Council’s referral of the Darfur genocide case to the International Criminal Court, passively supported ICC prosecutions in Congo and Uganda, called for prosecution of Charles Taylor before the Special Court for Sierra Leone (and indicted his son, Chuckie), and strongly supported the prosecutions of both Slobodan Milosevic before the International Criminal Tribunal for the former Yugoslavia and Saddam Hussein before the Iraqi Special Tribunal.

As I elaborate below, we have proven notably ineffective in curbing ongoing abuse: (1) in the face of genocide in Darfur; (2) as committed by our major allies, especially those in the War on Terror such as Saudi Arabia and Pakistan; (3) in the so-called “Axis of Evil” countries --North Korea, Iran, and Iraq—as well as in Afghanistan, notwithstanding our military interventions; and (4) in such traditional geopolitical rivals as China, Russia, and Cuba.

Finally, we have not built our capacity for preventing future abuse. Around the world, our democracy-building efforts have stalled. And we have weakened multilateral and regional institutions for global cooperation in the implementation of human rights and humanitarian norms—the ICC, the United Nations, the Human Rights Council—even while shying away from closer collaboration with democratic coalitions in Europe, Latin

⁵ For elaboration of these points, see Harold Hongju Koh, “Setting the World Right,” 115 Yale L.J. 2350 (2006), available at http://www.yalelawjournal.org/archive_abstract.asp?id=592

America, and Africa. This year, the United States refused to join the International Convention on the Protection of All Persons from Enforced Disappearance and refused to participate meaningfully in the negotiation of the Convention on the Rights of Persons with Disabilities, even though our country has significant expertise in this area, could have contributed importantly to the content and implementation of the Convention, and exhibits among the best disability practices in the world.

II. Troubling Trends and Ineffective Responses

These broad patterns become evident upon reading the 2006 State Department annual country reports on human rights practices. Let me applaud my former colleagues at the Bureau of Democracy, Human Rights and Labor and throughout the Foreign Service for their extraordinary diligence in producing these reports, which this year reflect a number of welcome developments.⁶ For thirty years, these reports have formed the heart of U.S. human rights policy, by providing the official information base upon which all branches of the federal government can make policy judgments.⁷

When I was Assistant Secretary of Democracy, Human Rights and Labor, I gave only one directive regarding these reports: *Tell the truth*. Reasonable minds may differ about what *policy consequences* should flow from the same truthful reporting about human rights conditions, but should not differ materially about what the true facts are. Yet in too many respects, this year's Country Reports show, we are not telling the full truth either about our human rights conduct, or that of our allies in the War on Terror.

For example, this year's country reports evidence both: (1) troubling changes in terminology and (2) noticeable underreporting of human rights violations. In the Syria, Libya, and Pakistan reports, for example, the State Department now describes acts that it had previously described as "torture" under the broader linguistic category of "torture and abuse."⁸ This change does not seem accidental. In the Justice Department's infamous

⁶ For example, this year's reports assess the important work of human rights defenders. The Guiding Principles on Non-Governmental Organizations, announced by Secretary Rice in December 2006, set forth important guidelines to assess ours and other governments' treatment of human rights NGOs. Based on the work of the new Global Internet Freedom Task Force, this year's reports include useful reporting on issues of internet freedom in every country.

⁷ The first of these reports, issued in 1977, ran only 137 pages and covered only a fraction of the world's countries. The last volume of the twentieth century covered 194 countries and totaled approximately 6,000 pages in typescript. When the 1999 reports were placed on the World Wide Web, well over 100,000 people read or downloaded parts on the first day that they appeared. *Introduction*, in U.S. DEPARTMENT OF STATE, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, 1999 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (released Feb. 25, 2000), http://www.state.gov/www/global/human_rights/1999_hrp_report/overview.html. The country reports are now supplemented by the annual State Department country reports on religious freedom and trafficking.

⁸ In the Syria Report, horrific torture techniques are listed in the exact same wording and order in both the 2006 and 2005 reports, but techniques that were previously described as "torture methods" in 2005 are now described as "methods of torture and abuse" in the 2006 report. Similarly, the Libya report lists the identical litany of torture techniques in 2005 and 2006, but the 2005 list of "methods of torture" is now called "methods of torture and abuse." Likewise, the Pakistan Report in 2005 referred to methods of "torture," while the identical methods in the 2006 Report are referred to as "severe abuse."

2002 “Torture Memo,” the Office of Legal Counsel argued in favor of an absurdly narrow definition of torture—“[inflicting] physical pain . . . equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death.”⁹ Yet as I have noted elsewhere, under that definition, many acts committed in Saddam Hussein’s Iraq would not have counted as “torture,” even though the Bush White House had previously called those very acts “torture” when they were committed by Saddam’s regime.¹⁰ Recently, the Administration has denied that it is engaged in or supporting torture,¹¹ but one might read the linguistic shift in the reports to suggest that it wants to preserve its freedom—as well as the freedom of the Syrians, Libyans, and Pakistanis—to commit actions that it now calls “abuse” as part of the War on Terror.¹²

Furthermore, the reports exhibit significant underreporting of human rights violations, especially when they are committed by U.S. allies. To give just a few glaring examples:

- The report on Indonesia fails to mention possible human rights violations committed by the U.S.-supported police anti-terrorism unit, Detachment 88.¹³
- The report on Afghanistan notes human rights abuses committed by government forces, including extrajudicial killings and torture, but claims that “elements of the security forces acted independently of government authority,” even though President Karzai has appointed a number of warlords and known human rights abusers as regional police chiefs.¹⁴ The report on Afghanistan mentions that some organizations “reported the presence of secret or unofficial prisons through 2005”

⁹ Memorandum of August 1, 2002 from Jay S. Bybee, Assistant Attorney General, Office of Legal Counsel, to Alberto R. Gonzales, Counsel to the President, Regarding Standards of Conduct of Interrogation under 18 U.S.C. §§ 2340-2340A (Aug. 1, 2004), *available at* <http://news.findlaw.com/nytimes/docs/doj/bybee80102mem.pdf>, at 1.

¹⁰ Such acts include “branding, electric shocks administered to the genitals and other areas, beating, pulling out of fingernails, burning with hot irons, and blowtorches, suspension from rotating ceiling fans, dripping acid on the skin, rape, breaking of limbs, denial of food and water, extended solitary confinement in dark and extremely small compartments, and threats to rape or otherwise harm family members and relatives” *See Saddam Hussein’s Repression of the Iraqi People*, *available at* <http://www.whitehouse.gov/infocus/iraq/decade/sect4.html>, discussed in Harold Hongju Koh, “Can the President Be Torturer-in-Chief?,” 81 *Indiana L.J.* 1145 (2006).

¹¹ Last year, President Bush told an interviewer: “I don’t think a president can . . . order torture, for example. . . . Yes, there are clear red lines. . . .” Interview with Bob Schieffer, CBS NEWS (Jan. 27, 2006), *available at* http://www.cbsnews.com/stories/2006/01/27/eveningnews/main1248952_page3.shtml.

¹² With respect to covered persons, who after the Supreme Court’s recent decision in *Hamdan v. Rumsfeld*, 126 S. Ct. 2749 (2006), plainly include suspected Al Qaeda detainees, Common Article 3 of the Geneva Conventions prohibits “at any time and in any place whatsoever . . . violence to life and person, in particular . . . cruel treatment and torture [and] outrages upon personal dignity, in particular humiliating and degrading treatment.” This prohibition simply confirms the existing legal obligations of American officials under the McCain Amendment (the Detainee Treatment Act) and two other treaties-- the Convention Against Torture, Articles 1-4 and 16, and Articles 7 and 10 of the International Covenant on Civil and Political Rights-- both of which the United States has ratified.

¹³ Human Rights First, “State Department’s Human Rights Reports Omit US Involvement in Abuses Abroad,” March 7, 2007, *available at*

<http://www.humanrightsfirst.org/media/usls/2007/statement/316/index.htm>

¹⁴ Human Rights Watch, *World Report 2007* 239 (2007).

but fails to mention the U.S. role in detention operations in Afghanistan, particularly the well-known U.S. detention center at Bagram Air Force Base, where over 600 individuals are believed to be detained.¹⁵

- Similarly, the report on Iraq omits any reference to the detention and interrogation activities of the United States in-country, counting only non-coalition force detainees and failing to mention the numerous U.S.-run Multi-National Force detention facilities in Iraq, which as of October 2006 held approximately 14,000 detainees throughout the country.
- The Jordan report estimates that 500,000 to 700,000 Iraqis are living in Jordan and notes that “[t]he government has tolerated the prolonged stay of many Iraqis beyond the expiration of the visit permits, under which they entered the country.” But it makes little or no mention of the often miserable conditions in which Iraqi residents of Jordan live or the recent difficulties that Iraqis fleeing the war zone have had in gaining entry to Jordan.¹⁶
- The report on Egypt is overly positive about the multi-party elections that took place in 2005. Moreover, the report fails to mention that during the presidential election, President Mubarak had accepted greater press freedom and relaxed intimidation of opposition forces, only to reverse course in 2006 and extend the Emergency Law until 2008. Just this past Monday, Egypt essentially constitutionalized the Emergency Law by enacting antiterrorism amendments to its Constitution to give the President permanent emergency powers, in what appears to have been a rigged vote.¹⁷ The government also postponed municipal elections, originally scheduled to take place last year, and cracked down on dissident and judges seeking greater independence. Nor does the Egypt Report mention that Italy has just indicted Italian and U.S. officials for their role in the abduction and transfer of an Egyptian cleric, Osama Hassan Mustafa Nasr, to Egypt where he was allegedly tortured.¹⁸

¹⁵ Human Rights First, “State Department’s Human Rights Reports Omit US Involvement in Abuses Abroad,” March 7, 2007, *available at* <http://www.humanrightsfirst.org/media/usls/2007/statement/316/index.htm>

¹⁶ A Human Rights Watch Report from November 2006, entitled *The Silent Treatment: Fleeing Iraq, Surviving in Jordan*, concludes that “hundreds of thousands of Iraqis living in Jordan face a daily threat of arrest, fines and deportation because the Jordanian government treats them as illegal immigrants rather than refugees” and that “[n]ow Jordan is refusing many Iraqis entry at its border.”

¹⁷ See Michael Slackman, *Charges of Vote Rigging as Egypt Approves Constitution Changes*, N.Y. Times, March 27, 2008, *available at* http://www.nytimes.com/2007/03/28/world/africa/28egypt.html?_r=1&ref=africa&oref=slogin.

¹⁸ *Italy Indicts 31 Linked to CIA*, ASSOCIATED PRESS, Feb. 15, 2007, *available at* <http://www.iht.com/articles/ap/2007/02/16/europe/EU-GEN-Italy-CIA-Kidnap.php>. In addition, Human Rights Watch reports that two Egyptian asylum seekers living in Sweden were summarily expelled by Swedish authorities, transported to Egypt on a CIA-leased aircraft, and tortured in Egypt. One was released without charge in October 2003, while the other was sentenced to twenty-five years in prison by a military tribunal that failed to meet basic fair trial standards. Human Rights Watch, *Black Hole: The Fate of Islamists Rendered to Egypt*, May 2005, <http://hrw.org/reports/2005/egypt0505/egypt0505.pdf>

- The Pakistan Report makes scant mention of Pakistan’s role in detaining, interrogating, and transporting detainees, even though an EU parliamentary investigation and Human Rights Watch have chronicled several cases of torture and abuse of terrorist suspects on Pakistani soil.¹⁹ Hundreds of people suspected of links to al-Qaeda or the Taliban have been arbitrarily arrested and detained, scores have become victims of enforced disappearance, and some have been unlawfully transferred to the custody of other countries, including the United States. Still, the United States has muted criticism of Pakistan in recent years, apparently because of Pakistan's support in the “War on Terror.” The Pakistan Report cites a comprehensive report by Amnesty International,²⁰ but does not acknowledge specific findings in the Amnesty report that enforced disappearances of individuals believed to be Al Qaeda or Taliban soared after 2001; that hundreds have been arbitrarily arrested and detained; that some have been unlawfully transferred to the custody of other countries, notably to the U.S. for detention at Guantánamo, and that U.S. intelligence personnel appear to have known of or participated in the arbitrary detention and enforced disappearance of some terror suspects in Pakistan.
- Similarly, the reports on a number of the Council of Europe member states contain no reference to the 2006 Report of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly on the “alleged secret detentions and unlawful inter-state transfers of detainees involving Council of Europe member states.”²¹ That damning report notes that “The United States, an observer state of our Organisation, actually created this reprehensible network, which we criticise in light of the values shared on both sides of the Atlantic. But we also believe ... that it is only through the intentional or grossly negligent collusion of the European partners that this ‘web’ was able to spread also over Europe.” The report identifies as playing varying roles in violating the rights of specific named persons: Sweden, Bosnia-Herzegovina, the United Kingdom, Italy, Macedonia, Germany, and Turkey. The Council of Europe report also singles out Poland and Romania, for helping to run secret detention centers and

¹⁹ An EU parliamentary investigation found that Murat Kurnaz, a Turkish citizen and German resident, was tortured after his arrest in Pakistan in 2001, as well as during his subsequent detention in Afghanistan and Guantánamo Bay. He was released without charge on 24 August 2006, after five years of extralegal detention. The temporary committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners, “Report on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners,” 26 January 2007, para. 83: <http://www.europarl.europa.eu/comparl/tempcom/tdip/pe382246.pdf> According to Human Rights Watch: “As the US State Department’s annual human rights report for 2004 describes, security forces in Pakistan ‘held prisoners incommunicado and refused to provide information on their whereabouts, particularly in terrorism and national security cases.’ What the report does not say is that the Pakistani authorities carried out these abuses with the full knowledge and participation of American intelligence agents. Indeed, the degree of US control may have been so great, in some cases, that it constituted a form of proxy detention.” Human Rights Watch, *Ghost Prisoner: Two Years in Secret CIA Detention*, February 2007, p. 2. <http://hrw.org/reports/2007/us0207/us0207web.pdf>

²⁰ See Amnesty International, “Pakistan: Human Rights Ignored in the ‘War on Terror,’” (Sept. 29, 2006), <http://web.amnesty.org/library/Index/ENGASA330362006>.

²¹ See <http://assembly.coe.int/Documents/WorkingDocs/doc06/edoc10957.pdf>

Germany, Turkey, Spain and Cyprus for serving as staging points for flights involving the unlawful transfer of detainees.

- Likewise, the Country Report on Canada is notably deficient with regard to the notorious extraordinary rendition case involving Maher Arar. The Report omits any mention that the case arose in the anti-terrorism context. Although the Report refers to the findings of the Canadian Commission of Inquiry convened to investigate Arar's case, the Report does not mention the Commission's conclusions: (1) that Arar was very likely detained and rendered to Syria by the United States because of incorrect intelligence suggesting that he posed a terrorism threat due to his suspected links and sympathies with extremist Islamic organizations;²² (2) that Arar's account of his torture in Syria was "completely credible;"²³ (3) that no evidence existed that Arar poses any kind of national security threat; and (4) that U.S. officials misled Canadian officials about their treatment of Arar and very likely bear much of the blame for Arar's ordeal.²⁴ The Report also fails to mention that the "United States . . . declined [the Commission's] invitation to give evidence or otherwise participate in the hearings."²⁵ The Report nowhere mentions that after the Commission's findings were announced, the Prime Minister issued a formal apology to Arar and his family; that the Government of Canada compensated Arar with a multi-million dollar payment; or that the former police (RCMP) Commissioner resigned the day after testifying before a House of Commons committee about in the Arar affair. The Report also downplays the scope of the Commission's suggestion to create an entirely new agency for reviewing the RCMP's national security activities, to ensure that similar travesties do not occur in the future.
- In discussing Turkmenistan, called one of the "world's most repressive and closed countries" by Human Rights Watch,²⁶ the Introduction to the Report focuses solely on press freedoms, not on the multitude of other serious human rights violations committed there.
- The Morocco Report severely downplays abuses in Western Sahara. Nor does the report chronicle several well-documented cases in which individuals arrested in Pakistan were rendered to Morocco and detained and allegedly tortured.²⁷

²² See Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, *Report of the Events Relating to Maher Arar: Analysis and Recommendations* 13-14 (2006).

²³ *Id.* at 9.

²⁴ *Id.* at 361.

²⁵ *Id.* at 11.

²⁶ See, e.g., Human Rights Watch, *World Report 2007* 430 (2007).

²⁷ German citizen Mohammad Zammar was arrested without formal charge on December 8, 2001 at Casablanca airport and apparently detained and tortured in Morocco and Syria. *Report on the Alleged Use of European Countries by the CIA for the Transportation and Illegal Detention of Prisoners*, January 26, 2007, available at <http://www.europarl.europa.eu/comparl/tempcom/tdip/pe382246.pdf>. Italian citizen Abou Elkassim Britel, arrested in Pakistan in March 2002 by the Pakistani police and interrogated by U.S. and Pakistani officials, was subsequently rendered to the Morocco and imprisoned in the Temara detention facility, where he remains detained. *Id.* According to Human Rights First, Binyam Muhammad was arrested in Karachi, Pakistan in April 2002, charged with conspiring with Jose Padilla, hung from the

More fundamentally, the reports tell a story of repeated failure of U.S. human rights policy. They attest to our striking ineffectiveness in curbing abuses in four categories of countries: (1) in the face of genocide in Darfur, Sudan; (2) as committed by our major allies, especially those in the War on Terror; (3) in the so-called “Axis of Evil” countries --North Korea, Iran, and Iraq—as well as in Afghanistan, notwithstanding costly military interventions; and (4) in such traditional geopolitical rivals as China, Russia, and Cuba:

1. Sudan: The Sudan report is admirably thorough and unflinching in its condemnation of Khartoum. It appropriately refers to events in Darfur as “genocide,” attributes primary responsibility to the government militia, and accurately portrays the escalating violence toward the end of last year. Sadly, however, this reporting only raises more sharply the question: what is the United States now doing to stop what we called “genocide” some years ago?

2. Allies: As noted above, the Reports persistently underreport, selectively report, or simply omit description of human rights violations committed by our perceived allies in the War on Terror. Even where the reports do accurately report human rights abuses, the dismal record only attests to our reduced or ineffective efforts at human rights advocacy in those countries. In perhaps the starkest example, Pakistan, President Pervez Musharraf continues to rule with an iron fist despite his broken promises to put Pakistan on the road to democratic reform. Despite the passage of the Women’s Protection Bill, gender-based violence, including honor killings, recurred frequently during the past year, forced disappearances increased substantially, arbitrary arrest and lengthy pretrial detention are pervasive, and an increasing number of journalists are being targeted for harassment, intimidation, and arrests.

The Saudi Arabia report accurately calls the human rights situation in that country “poor,” but pulls its punches by omitting several accounts of abuse in prisons that can be found in the Human Rights Watch 2007 Report.²⁸ Significantly, the Report acknowledges that press accounts claimed that Saudi Arabia “did not imprison persons on political grounds, but because they were terrorists or collaborators with terrorists” The Report also underplays significant oppression by the Saudi government of human rights

ceiling of his cell with leather straps and whipped by his Pakistani jailers, and flown to Morocco where he spent 14 weeks and underwent torture by means of a razor being used to make incisions on his chest and his genitals. He was then transferred to what he believes was a CIA-run prison in Afghanistan, before his subsequent transfer to Guantanamo. "The Case of Binyam Ahmed Muhammad," available at: http://www.humanrightsfirst.org/us_law/detainees/cases/ahmed-muhammad.htm; and "Jose Padilla's Motion to Suppress Physical Evidence and Issue Writs ad Testificandum," available at: <http://jurist.law.pitt.edu/ControvertWarrantSuppressEvidenceMotion.pdf>

²⁸ See Human Rights Watch, *World Report: Saudia Arabia* (2007), available at <http://hrw.org/englishwr2k7/docs/2007/01/11/saudia14717.htm>.

defenders (ten of whom were arrested in February 2007),²⁹ and the persistent government denial of access to prisons for human rights monitors, a continuing, major barrier to accurate human rights monitoring and reporting in Saudi Arabia.

Nor does systematic underreporting of violations appear limited to the security context and U.S. allies in the War on Terror. For example, in 2005 the International Labor Organization (ILO) published three reports documenting the widespread existence of forced labor in Peru, Bolivia, and Paraguay.³⁰ In Peru and Bolivia—where this problem is most acute—the ILO estimated that tens of thousands of individuals were subjected to debt bondage. While levels of forced labor are comparable in Peru and Bolivia, the U.S. State Department’s reporting of these findings on Bolivia are expounded at length, while the Peruvian case is relegated to a single sentence in the Peru report, perhaps because of the Administration’s desire to secure prompt passage of the Peru-US Trade Promotion Agreement (TPA), which currently contains weak labor provisions, and whose fate may be decided in the next few days.³¹

3. The “Axis of Evil” (Iraq, Iran, North Korea) plus Afghanistan: Despite the Administration’s aggressive rhetoric -- and in some cases, even military intervention--in these four countries, their human rights record seems to be deteriorating.

- According to the Afghanistan report, for example, the security situation there has deteriorated and basic human rights are not guaranteed despite the fact that it has been more than five years since the fall of the Taliban. Weak central institutions and a deadly insurgency contributed to the ineffectiveness of the government to secure basic rights. The Taliban, Al-Qaeda, and other extremist groups stepped up attacks against government, aid personnel, and unarmed civilians; and the number of suicide bombings rose dramatically during the year. According to the report, the U.S.-supported government also committed its own share of human rights abuses, including arbitrary arrests and detention, extrajudicial killings, torture, and poor prison conditions plagued the country. It remains unclear how much the United States Government is meaningfully doing to reverse this trend.
- As the daily headlines chronicle, the human rights situation in Iraq gets worse by the day. As the Iraq Study Group reported, the internal situation is descending into chaos, as the insurgency has wreaked havoc on the ability of the government to ensure the people of Iraq can enjoy even basic rights. There was a marked increase in extrajudicial killings, and terrorist groups and death squads killed thousands of Iraqis in Baghdad alone.³² Given the precarious security situation,

²⁹ See International Commission of Jurists, “Saudi Arabia: ICJ Calls on Saudi Arabia to Cease Harassment [sic] of Human Rights Lawyers and Defenders,” Feb. 10, 2007, available at

http://www.icj.org/news.php3?id_article=4122 (=en.

³⁰ See http://www.ilo.org/dyn/declaris/DECLARATIONWEB.WORKINGPAPERS?var_language=EN.

³¹ See Doug Palmer, “March 31 looms large on U.S. Trade Agenda,” *Reuters*, 26 March 2007, available at <http://www.reuters.com/article/reutersEdge/idUSN2643248220070326>.

³² The Iraq report notes the following human rights problems: “Pervasive climate of violence; misappropriation of official authority by sectarian, criminal, terrorist, and insurgent groups; arbitrary deprivation of life; disappearances; torture and other cruel, inhuman, or degrading treatment or punishment;

human rights issues have moved to the backburner in Iraq, and will be increasingly at risk (especially in the area of detainee treatment) as we ask the Iraqis to assume a greater role in security operations.

- The human rights situation in Iran is increasingly disturbing.³³ Although a great percentage of the Iranian people support democratic reform, the country remains in the hands of the conservative clerics, who closely monitor and restrict the opposition and the press, punish human rights defenders, and impose a strict form of Sharia law that denies women and minorities basic rights. This year, Iranian government shut down two independent newspapers and blocked access to many media internet sites. Yet the U.S. saber-rattling approach has blunted its ability to gain human rights leverage. In criticizing Iran for its “severe restriction of the right of citizens to change their government peacefully,” the report uses stronger language than is found in the reports for Syria and Saudi Arabia, which have arguably similar levels of restrictions on the right to change the government. Moreover, our criticism of Iranian “Security forces [who] monitored the social activities of citizens, entered homes and offices, monitored telephone conversations, and opened mail without court authorization,” is blunted by their ability to point to our own National Security Agency’s (NSA’s) sustained program of secret, unreviewed, warrantless electronic surveillance of American citizens and residents.³⁴ Nor are we on strong footing attacking Iran for “illegal detentions” when similar charges can be and have been lodged against our own government.³⁵

impunity; poor conditions in pretrial detention facilities; arbitrary arrest and detention; denial of fair public trial; an immature judicial system lacking capacity; limitations on freedoms of speech, press, assembly, and association due to terrorist and militia violence; restrictions on religious freedom; large numbers of internally displaced persons (IDPs); lack of transparency and widespread corruption at all levels of government; constraints on nongovernmental organizations (NGOs); discrimination against women, ethnic, and religious minorities; and limited exercise of labor rights.”

³³ As the Iran Report notes: “Human rights problems included severe restriction of the right of citizens to change their government peacefully unjust executions after reportedly unfair trials; disappearances; torture and severe officially sanctioned punishments such as death by stoning; flogging; excessive use of force against demonstrators; violence by vigilante groups with ties to the government; poor prison conditions; arbitrary arrest and detention; lack of judicial independence; lack of fair public trials; political prisoners and detainees; severe restrictions on civil liberties including speech, press, assembly, association, movement, and privacy; severe restrictions on freedom of religion; official corruption; violence and legal and societal discrimination against women, ethnic and religious minorities, and homosexuals; incitement to anti-Semitism.”

³⁴ In prior testimony, I joined the many lawyers who have challenged the legal basis for the NSA surveillance program. See generally Statement of Harold Hongju Koh before the Senate Committee on the Judiciary regarding Wartime Executive Power and the National Security Agency’s Surveillance Authority, Feb. 28, 2006, available at www.law.yale.edu/documents/pdf/HHKNSAtestfinal.pdf. Ironically, the report on Venezuela accuses the Chavez government of “illegal wiretapping” in its list of human rights violations.

³⁵ The Iran Report notes: “in recent years authorities have severely abused and tortured prisoners in a series of ‘unofficial’ secret prisons and detention centers outside the national prison system. Common methods included prolonged solitary confinement with sensory deprivation, beatings, long confinement in contorted positions, kicking detainees with military boots, hanging detainees by the arms and legs, threats of execution if individuals refused to confess, burning with cigarettes, sleep deprivation, and severe and repeated beatings with cables or other instruments on the back and on the soles of the feet.”

- Nowhere is the picture more depressing than North Korea, which I visited as a State Department official in the fall of 2000. As the report chronicles, no human rights progress has been made there despite our aggressive rhetoric. The country remains one of the most repressed, closed and isolated countries in the world. The regime tightly controls the lives of its citizens, denying them freedom of speech, press, assembly, and association, and restricting freedom of movement and worker rights. An estimated 150,000 to 200,000 people, including political prisoners and returned refugees from China, were detained by the North Korean government, many of whom suffered from torture, starvation, disease, and exposure. Forced abortions of pregnant female prisoners were reported, as were cases in which babies were killed upon birth in prisons.

4. Traditional geopolitical rivals

A. China: Happily, the China Report continues to be frank and detailed. The report forthrightly reports the Chinese government's tight grip on the press and civil society, its controls on NGOs and the media, its suppression of political dissent, and its continuing harassment, detention, and imprisonment of political and religious activists, journalists, writers, and lawyers. The Report also notes that long-promised legal reforms were continually stalled; that executions often took place the day after appeals; that China has continued its illegal repatriation of North Korean refugees, and its severe cultural and religious repression of minorities in Tibet as well as Uighur Muslims.

Yet it is clear that China has exploited the Bush Administration human rights record to charge that the United States has no standing to criticize China's human rights performance. "As in previous years, the State Department pointed the finger at human rights conditions in more than 190 countries and regions, including China, but avoided touching on the human rights situation in the United States," the government said in a report recently issued by Premier Wen Jiabao's office. "We urge the U.S. government to acknowledge its own human rights problems and stop interfering in other countries' internal affairs under the pretext of human rights."³⁶ Nor has China hesitated to charge democracy activists with terrorism, as it did in the case of the founder of the democracy magazine *China Spring*, Wang Bingzhang, who was sentenced to life imprisonment for "organizing and leading a terrorist group."

The Report enumerates limitations on internet freedom imposed by the Chinese government. It also lists the names of several individuals were detained or imprisoned for their Internet writing during the year. Unfortunately it does not highlight enough the role of private multinational corporations in supplying the Chinese government with equipment and technology that can be used to block sites.³⁷ Nor does it fully call to account foreign content providers such as Yahoo, AOL, Google and Skype, who abide

³⁶ China Issues Human Rights Record of the United States, *People's Daily Online*, March 8, 2007, available at http://english.people.com.cn/200703/08/eng20070308_355469.html.

³⁷ See generally Eric Harwit and Duncan Clark, "Shaping the Internet in China: Evolution of Political Control Over Network Infrastructure and Content," *Asian Survey*, 41:3, May-June 2001, pp. 337-408.

by PRC government wishes, including having internal content monitors, in order to be able to operate within mainland China.³⁸ As a number of human rights and media NGOs have noted, these content-provider companies have in many respects taken on the government's role as censor to stifle access to information. The United States government must do more both to press the Chinese government to relax its restrictions and to persuade companies to stop contributing to the Chinese authorities' censorship efforts.

B. Russia: The Russia Report makes clear that President Putin has further consolidated power in the executive branch, cracking down on opposition groups and the media. Putin has shrewdly exploited the U.S. antiterrorist rhetoric, declaring as early as September 12, 2001 that the US and Russia “have a common foe” because Osama Bin Laden’s people were connected to events in Chechnya.³⁹ Within months the US government had added three Chechen groups to its list of foreign terrorist organizations.

Disturbingly, human rights defender Anna Politkovskaya, known for her criticisms on Chechnya, was murdered at point blank range and it remains unclear who ordered her death. And Russian government forces continue to commit serious human rights violations in Chechnya and other areas of the North Caucasus, including unlawful killings, arbitrary detention and arrest, and torture. Yet the report on Russia downplays incidences of torture committed by Russian forces in Chechnya, which Human Rights Watch describes as “systematic” and “widespread.” The Second Operational Investigative Bureau (ORB-2), which is responsible for some of the worst torture in the Chechen region, is not mentioned by name and only receives one sentence consideration. Human rights abuses committed by Chechen Prime Minister Ramzan Kadyrov’ forces are misleadingly blamed on individual soldiers rather than upon systemic causes.⁴⁰

C. Cuba: The report on Cuba correctly notes that Castro “continued to violate virtually all the rights of its citizens.” As the Committee knows, I have long been concerned about the human rights of Cuban citizens. Along with former Congressman Sam Gejdenson, a one-time chair of this Committee, I recently visited Havana, with all appropriate U.S. governmental licenses, where I visited the leading Cuban dissident, Oswaldo Paya and his family. As Mr. Paya noted in a recent Washington Post op-ed piece, just last week marked the fourth anniversary of “Cuban Spring” -- March 18 to 20, 2003 – when Castro’s state security fanned out across Cuba and arrested 75 independent journalists, librarians, labor unionists, human rights activists and other dissidents, many of whom were tried on charges of “anti-state” activities, sentenced to lengthy prison

³⁸ Worldwide, government approval of internet service providers is increasingly becoming a means to control internet freedom. I am informed that in the Central African Republic (CAR), for example, internet freedom has recently declined, because the government’s requirement that users use a single approved internet service provider now makes it impossible to use Skype or other Voice over Internet Protocol (VOIP) programs.

³⁹ Susan B. Glasser and Peter Baker, “Putin, Bush Weigh New Unity Against a Common Foe,” *Washington Post*, Sept. 13, 2001: A25.

⁴⁰ Human Rights Watch. “Widespread Torture in the Chechen Republic: Human Rights Watch Briefing Paper for the 37th Session UN Committee against Torture.” (Nov. 13, 2006). *available at* <http://hrw.org/backgrounder/eca/chechnya1106/> (last accessed Mar. 25, 2007), 1, 9-10.

terms, and remain imprisoned today.⁴¹ We must listen to the voices of Cuban democrats on the island, like Paya, and should stand behind their courageous efforts. But when I asked a Cuban citizen recently how effective the U.S. government has been in objecting to the continued detention of the Cuban Spring activists, he sighed and told me, “When they raise these issues, the Castro government can now rebut with just one word: ‘Guantanamo.’”

III. Repairing the Damage

The sobering trends in this year’s reports indicate a desperate need for this U.S. Administration and the next to recommit the United States to promoting and protecting human rights throughout the world. While space does not permit an exhaustive survey of necessary steps, we should begin, at a minimum, by (1) taking immediate action against genocide in Darfur; (2) taking further steps to tell and disseminate the truth; (3) reengaging with multilateral institutions, especially the U.N. Human Rights Council and the International Criminal Court; and (4) promoting democratic transitions and supporting democratic movements within authoritarian societies.

A. Preventing Genocide: This Committee has grappled repeatedly with the crisis in Darfur, and I will not rehearse again the various policy options available to us. Nevertheless, it remains an international disgrace that we have not led the way in preventing what Secretary of State Colin Powell forthrightly called “genocide” several years ago. It should go without saying that “Never again” should really mean “Never again,” not “Never again, except in Africa.” Congress should quickly enact legislation that: (1) targets new sanctions (such as travel bans and assets freezes) upon individuals named in the U.N. Commission of Inquiry and upon Sudanese companies owned by ruling party officials doing business abroad, (2) targets revenue flows from the “blood oil” sector; (3) imposes capital market sanctions on foreign firms who deal with Khartoum, (4) creates mechanisms for sharing information with the International Criminal Court to accelerate indictments against Khartoum officials, (5) ensures protection for Sudanese refugees and internally displaced persons, and (6) calls for immediate deployment of peacekeepers into Darfur—with a deadline for Khartoum’s acceptance of such a force-- to help achieve an enforceable ceasefire that can lead to a sustainable political settlement.⁴²

B. Telling and disseminating the truth: I have chronicled above a number of ways in which this year’s Country Reports unfortunately shade or underreport the truth. In addition to correcting these defects, the State Department should ensure that these country reports are made widely available in the very countries whose human rights conduct is being described. In February 2006, Secretary Rice established the important Global Internet Freedom Task Force, which deserves credit for including new reporting

⁴¹ Oswaldo José Payá Sardiñas, “Four Years in the Other Guantanamo,” *Washington Post*, March 18, 2007: A15. *see also* Oswaldo José Payá Sardiñas, “The Unstoppable Cuban Spring,” *Washington Post*, July 1, 2006; A25.

⁴² For a summary of Darfur legislative proposals, see <http://www.darfurscores.org/darfur-legislation>.

in this year's reports on the means by which internet restrictions occur in each country. Unfortunately, the Department does not seem to be living up to its own mission by making translations of the country reports available in as many places and in the most visible ways possible, including by linking translated versions of the reports to the main State Department website, so that they are available to citizens in the countries themselves. Some governments, for example the Chinese, are believed to block these translated versions, although eventually, under pressure, they do generally allow them to be posted. I would urge this Committee to ensure that the State Department is not avoiding linking these translated reports to its main website to minimize friction with the governments it criticizes. The Country Reports are a massive undertaking, containing much valuable information, but they have little value unless they are widely disseminated, particularly in countries where—because of government repression-- much of the information remains unknown to the general public.

C. Reengaging with multilateral Human Rights Institutions: In the last six years, the United States has unwisely disengaged from various institutions that promote fundamental human rights, chief among them the International Criminal Court (ICC) and the newly-established Human Rights Council (Council). While the United States will not likely become a state-party to the ICC or a member of the Council in the near future, the Administration can show its good faith by reengaging with both institutions and establishing special envoys to represent U.S. interests at those institutions. In addition, the U.S. can and should articulate a policy that encourages the success of these institutions, even if the U.S. chooses not to seek full membership in them at this point.

Demonstrating U.S. support for these institutions is critical now, when those institutions are necessary to resolve major crises, such as the ongoing genocide in Darfur and the human rights crisis in Iraq, especially while these institutions are still defining their operating structures and policies. Many of our closest allies interpret current U.S. policies hostile to these institutions as signs that the U.S. government is determined to ensure that these institutions fail. It is essential that the U.S. government both support and be understood by others as supporting these important and necessary multilateral institutions.

1. United Nations Human Rights Council: On March 5, 2007, the same day that the Country Reports were released, the Administration indicated that it would refuse to run for a position on the United Nations Human Rights Council for the second time. This continued disengagement with a reformed human rights body that the United States initially favored severely hamstrings American efforts to promote human rights through multilateral processes. I agree with both Human Rights Watch and Freedom House that the United States should modify its stance by appointing a Special Envoy to the Council to engage in discussions about institutional design and to enable the Council to respond more effectively to human rights abuses worldwide.⁴³

⁴³ See Kenneth Roth, Human Rights Watch, "Letter to Secretary Rice regarding the Appointment of a Special Envoy to the UN Human Rights Council," March 9, 2007, *available at* <http://hrw.org/english/docs/2007/03/14/usint15486.htm>; Freedom House, "The UN Human Rights Council

The State Department claims that the U.S. should remain an observer of the Council until it “expand[s] its focus and become[s] a more credible institution.”⁴⁴ Yet that is hardly likely to happen without U.S. participation and leadership. Admittedly, the Council’s first year was unsuccessful, focusing almost exclusively on scapegoating Israel and failing to address serious human rights problems in such countries as Sudan, Uzbekistan and Iran. Much of the Human Rights Council’s lack of credibility can be traced to the lack of leadership within it on the part of countries that traditionally promote human rights, especially the United States. Thus far, the dominant voices within the Council have belonged to such countries such as Algeria, Saudi Arabia, and Azerbaijan, which currently lead the Eastern Europe, Asia and Africa regional groups. The hesitancy of Council members who have long promoted human rights to assume leadership, coupled with the U.S.’s own failure to engage, have hampered the Council’s credibility.⁴⁵

The U.S. should break this vicious cycle by engaging itself, and also encouraging likeminded human rights-friendly countries such as European Union members to seek stronger leadership roles or at least membership on the Council. Obviously the Council can only be as strong and as credible as its member states. Without United States engagement and additional leadership from other countries promoting human rights, the Council will not likely improve significantly upon its performance. Without engagement, our self-defeating claim that the Human Rights Council “doesn’t work and is hostile to U.S. interests” will become a self-fulfilling prophecy.

2. International Criminal Court: As noted above, for all its harsh rhetoric, the United States government has already de facto shifted its policy stance toward the ICC by abstaining from Security Council referrals to the ICC regarding Darfur. I have elsewhere argued that the United States should shift its approach from counterproductive hostility to constructive engagement with that body.⁴⁶ The United States Government should continue in this direction to engage with the ICC in order: (1) to demonstrate the United States’ commitment to multilateral human rights institutions; (2) to better utilize the ICC in response to human rights crises, including the ongoing genocide in Darfur and the looming crisis in Iraq; and (3) to influence future policy and practice of the ICC.

At the same time, Congress should move to demonstrate the United States’ changed attitude toward the ICC by repealing provisions of American Service-members’ Protection Act of 2002.⁴⁷ This Administration has wasted untold diplomatic capital with key allies whose support we desperately need on a range of global issues by implementing this counterproductive and ineffective law. The U.S. should repeal portions of this law, including the prohibitions on military assistance to countries that

at the Halfway Mark: A Report Card,” Nov. 20, 2006, *available at* www.freedomhouse.org/uploads/special_report/47.pdf.

⁴⁴ Sean McCormack, State Department Daily Press Briefing, available at: <http://www.state.gov/r/pa/prs/dpb/2007/mar/81471.htm>.

⁴⁵ See Peggy Hicks, “How to Put UN Rights Council Back on Track,” *The Forward*, November 3, 2006. Available at: <http://hrw.org/english/docs/2006/11/03/global14503.htm>.

⁴⁶ See Harold Hongju Koh, On American Exceptionalism, 55 *Stanford L. Rev.* 1479, 1503-09 (2003).

⁴⁷ American Service-members’ Protection Act of 2002, 22 U.S.C. §§ 7421 et seq. (2002).

have ratified the Rome Statute and on U.S. cooperation with the ICC, establishing instead procedures for sharing intelligence with the ICC under certain circumstances.⁴⁸

D. Supporting the Democratic Opposition and Promoting Democratic Transitions: Finally, the United States needs to make clear again, wherever possible, its support for genuine democratic oppositions and potential democratic transitions. Nowhere is this more necessary than in Cuba, where the human rights record has remained dismal for half a century. As you know, on July 31, 2006, after undergoing surgery, Fidel Castro transferred his responsibilities to his younger brother Raúl Castro. Although proclaimed “temporary” by the Castro regime, many observers—including many I spoke to during my recent trip to Havana—believe that Castro’s deteriorating health will likely mean a permanent transfer of power. This means that the Cuban people may soon likely have an historic window of opportunity to move towards democracy and whatever United States Administration is in office must be ready to support them.⁴⁹

Broadly speaking, one could envision four possible scenarios for Cuban transition, only the last of which is desirable: (1) maintenance of the fifty-year status quo under Raul Castro; (2) unrest, violence, chaos, and possible military intervention; (3) a Chinese-style economic liberalization under Raul without political liberalization; or (4) a peaceful democratic transition driven by the nonviolent pro-democracy activists who are best poised to lead such a transition in Cuba.

The best known of these leaders is pro-democracy activist Oswaldo Payá, who I recently visited in Cuba, along with former Congressman Sam Gejdenson of this Committee. As the leader and founder of the Christian Liberation Movement, Payá has fought courageously for freedom of association, freedom of expression, freedom of the press, free elections, the right to operate private businesses, and amnesty for the political prisoners. In 2004, under a constitutional provision that puts any proposal to a national referendum if it receives over 10,000 signatures, Payá conceived the Varela Project, and presented over 11,000 signatures to the National Assembly, which ignored his request. Payá subsequently delivered 14,000 additional signatures for a total of more than 25,000. Although Payá remains free in Cuba, the government has severely restricted his freedom of movement. Many of his supporters remain held as political prisoners. As I can personally attest, he and his family are daily subjected to routine and cruel intimidation.

The Cuban people must be in charge of their own future, and the United States should stand in solidarity with them, as we have historically done with democratic movements in Eastern Europe, Burma, Korea, the Philippines, South Africa, and Latin America. The United States should reach out to Oswaldo Payá and other democratic

⁴⁸ The law currently prohibits U.S. cooperation with the ICC (including intelligence sharing) and military assistance to states that have ratified the ICC, authorizes the President to use military force to free American citizens held by the ICC, and restricts U.S. participation in peacekeeping missions where U.S. citizens might be subject to ICC jurisdiction. *See generally* Col. Tia Johnson, *The American Servicemembers’ Protection Act: Protecting Whom?* 43 Va. J. Int’l L., 461-72 (2003).

⁴⁹ The United States has already approved \$80 million for fostering democratic change in Cuba and has committed to supporting any government succeeding Castro that guarantees fair elections and puts an end to repression.

activists on the island and offer support. However, the transition must be designed and led by Cubans themselves. An historic change is coming soon in Cuba. Supporting democratic transitions by reference to the genuine will of the people should be a high priority in the United States' effort to rebuild its reputation as a human rights leader.

IV. Conclusion

Let me close by repeating a statement I made to this Committee four years ago, which I believe even more fervently today: "In its pursuit of the war against terrorism, the Administration has allowed some human rights concerns to fall by the wayside and has consciously sacrificed others. But democracy and human rights cannot be pursued in a selective or piecemeal fashion. Rather, the events of September 11th make clear that the United States must work to achieve its objectives within the framework of international law, holding ourselves to the same standards to which we hold others. We have the tools to make the world safer and more democratic, [but] if only we use them fairly."⁵⁰

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

⁵⁰Statement of the Honorable Harold Hongju Koh, "A survey and analysis of supporting human rights and democracy: the U.S. record 2002–2003," Hearing Before the House Committee on International Relations, July 9, 2003, available at http://commdocs.house.gov/committees/intlrel/hfa88166.000/hfa88166_0.HTM.