

HUMAN
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Front cover photo: *Oiparcha Mirzamatova and her daughter-in-law hold photographs of family members imprisoned on religion-related charges. Fergana Valley, Uzbekistan.* © 2003 Jason Eskenazi

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We stand with victims and activists to prevent discrimination, to uphold political freedom, to protect people from inhumane conduct in wartime, and to bring offenders to justice.

We investigate and expose human rights violations and hold abusers accountable.

We challenge governments and those who hold power to end abusive practices and respect international human rights law.

We enlist the public and the international community to support the cause of human rights for all.

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INTRODUCTION

By Kenneth Roth

“Practice what I preach, not what I do” is never terribly persuasive. Yet the U.S. government has been increasingly reduced to that argument in promoting human rights. Some U.S. allies, especially Britain, are moving in the same disturbing direction, while few other powers are stepping in to fill the breach.

This hypocrisy factor is today a serious threat to the global defense of human rights. Major Western powers historically at the forefront of promoting human rights have never been wholly consistent in their efforts, but even their irregular commitment has been enormously important. Today, the willingness of some to flout basic human rights standards in the name of combating terrorism has deeply compromised the effectiveness of that commitment. The problem is aggravated by a continuing tendency to subordinate human rights to various economic and political interests.

The U.S. government’s use and defense of torture and inhumane treatment played the largest role in undermining Washington’s ability to promote human rights. In the course of 2005, it became indisputable that U.S. mistreatment of detainees reflected not a failure of training, discipline, or oversight, but a deliberate policy choice. The problem could not be reduced to a few bad apples at the bottom of the barrel. As evidenced by President George W. Bush’s threat to veto a bill opposing “cruel, inhuman, and degrading treatment,” Vice President Dick Cheney’s lobbying to exempt the Central Intelligence Agency (“CIA”) from the bill, Attorney General Alberto Gonzales’s extraordinary claim that the United States is entitled to subject detainees to such treatment so long as the victim is a non-American held overseas, and CIA Director Porter Goss’s defense of a notorious form of torture known as water-boarding as a “professional interrogation technique,” the U.S. government’s embrace of torture and inhumane treatment began at the top.

Late in 2005, increasing global attention to the U.S. policy of holding some terror suspects as “ghost detainees”—indefinitely, incommunicado, and without charges at undisclosed locations outside of the United States—further damaged U.S. credibility.

Key U.S. allies such as Britain and Canada compounded the leadership problem in 2005 by seeking to undermine certain critical international rights protections. Britain sought to justify sending terrorist suspects to countries that torture, and Canada worked aggressively to dilute key provisions of a new treaty on enforced disappearances.

These governments, as well as other members of the European Union, also continued to subordinate human rights in their relations with others whom they deemed useful in fighting terrorism or pursuing other goals. That tendency, coupled with the European Union’s continued difficulty in responding firmly to even serious human rights violations, meant that the E.U. did not compensate for this diminished human rights leadership.

Fighting terrorism is central to the human rights cause. Any deliberate attack on civilians is an affront to fundamental values of the human rights movement. And acts of terrorism took an appalling toll in 2005. In Iraq attacks on civilians occurred nearly every day, killing thousands, while other terror attacks claimed the lives of civilians in Afghanistan, Britain, Egypt, India, Indonesia, Israel, Jordan, Nepal, Pakistan, Thailand, and the United Kingdom. But the willingness to flout human rights to fight terrorism is not only illegal and wrong; it is counterproductive. These human rights violations generate indignation and outrage that spur terrorist recruitment, undermine the public cooperation with law-enforcement officials that is essential to exposing secret terrorist cells, and cede the moral high ground for those combating the terrorist scourge.

Among other pressing challenges in 2005 were the Uzbekistan government’s massacre of hundreds of demonstrators in Andijan in May; the Sudanese government’s consolidation of ethnic cleansing in Darfur, in western Sudan; continued severe repression in Burma, North Korea, Turkmenistan, and Tibet and Xinjiang in China; tight restrictions on civil society in Saudi Arabia,

Syria, and Vietnam; persistent atrocities in the Democratic Republic of Congo (“DRC”) and the Russian republic of Chechnya; and massive, politically motivated forced evictions in Zimbabwe.

Although the United States responded to several of these developments, its impact was seriously undercut by its diminished credibility. The effect was most immediate on issues of torture and indefinite detention (indeed, the administration rarely even raised concerns about torture by other countries and would have been labeled a hypocrite if it had), but even when the administration spoke out in defense of human rights or acted commendably, its initiatives made less headway as a result of the credibility gap. European and other powers, meanwhile, had their own credibility problems or did far too little to correct the balance. The result was a global leadership void when it came to defending human rights.

Sadly, Russia and China were all too happy to fill that void by building economic, political, and military alliances without regard to the human rights practices of their partners. China’s rise as an economic power, and Russia’s determination to halt democratizing trends in the former Soviet Union, meant that many governments around the world confronted a political landscape significantly realigned to the detriment of human rights protection. China’s and Russia’s disregard for human rights in their foreign relations created, in turn, further pressure for Western governments to do likewise for fear of losing economic opportunities and political allies.

Against this bleak backdrop, certain bright spots could still be found in the global system for defending human rights. Sometimes the major Western powers still managed to stand up for human rights, as in Burma, North Korea, and Sudan. Other times, governments from the developing world stepped in. India, for example, played a constructive role in opposing the king of Nepal’s takeover of the government in February and his crackdown on political parties and civil society (although India continued lending support to Burma’s murderous generals). The Association of Southeast Asian Nations (ASEAN) did better with Burma, successfully pressuring it to relinquish its 2006 chairmanship because of its disastrous human rights record. Mexico took the lead in convincing the United Nations Commission on

Human Rights to maintain a special rapporteur on protecting human rights while countering terrorism. Kyrgyzstan stood up to intense pressure from its powerful neighbor, Uzbekistan, to rescue all but four of 443 refugees from the Andijan massacre, and Romania accepted the rescued refugees for temporary resettlement pending long-term relocation.

Still, governments from the developing world were hardly consistent themselves in defending human rights. Some of them took the lead, for example, in undermining the U.N. Commission on Human Rights and trying to prevent the emergence of an improved successor, the proposed U.N. Human Rights Council. Others prevented the U.N. General Assembly from condemning ongoing ethnic cleansing in Darfur. Moreover, even those that showed a genuine commitment to human rights lacked the influence to make up for reduced Western backing.

At the multilateral level, there was also some good news to report in 2005. The International Criminal Court advanced with the filing of its first indictments—on Uganda—and the U.N. Security Council’s first referral to it of a case—Darfur. A U.N. committee concluded negotiations on a new convention to combat enforced disappearances, and fifteen African countries adopted a new protocol on the rights of women. A summit of world leaders at the United Nations endorsed a Canadian-sponsored concept of a global “responsibility to protect” people facing mass slaughter, and took preliminary steps toward strengthening the organization’s human rights machinery, but as this report went to press in late November, major questions remained about the fate and definition of the proposed Human Rights Council.

Torture and Inhumane Treatment: A Deliberate U.S. Policy

International human rights law contains no more basic prohibition than the absolute, unconditional ban on torture and what is known as “cruel, inhuman, or degrading treatment.” Even the right to life admits exceptions, such as the killing of combatants allowed in wartime. But torture and inhumane treatment are forbidden unconditionally, whether in time of peace or war, whether at the local police station or in the face of a major security threat.

Yet in 2005, evidence emerged showing that several of the world's leading powers now consider torture, in various guises, a serious policy option.

Any discussion of detainee abuse in 2005 must begin with the United States, not because it is the worst violator but because it is the most influential. New evidence demonstrated that the problem was much greater than it first appeared after the shocking revelations of abuse at Abu Ghraib prison in Iraq. Indeed, the sexual degradation glimpsed in the Abu Ghraib photos was so outlandish that it made it easier for the Bush administration to deny having had anything to do with it—to pretend that the abuse erupted spontaneously at the lowest levels of the military chain of command and could be corrected with the prosecution of a handful of privates and sergeants.

As Human Rights Watch noted in last year's World Report, that explanation was always inadequate. For one thing, the abuse at Abu Ghraib paralleled similar if not worse abuse in Afghanistan, Guantánamo, elsewhere in Iraq, and in the chain of secret detention facilities where the U.S. government holds its "high value" detainees. For another, these abuses were, at the very least, the predictable consequence of an environment created by various policy decisions taken at the highest levels of the U.S. government to loosen constraints on interrogators. Those decisions included ruling that combatants seized in the "global war on terrorism" were unprotected by any part of the Geneva Conventions (not simply the sections on prisoners of war); adopting a definition of torture that rendered the prohibition virtually meaningless; not prosecuting offenders until the Abu Ghraib photos became public, even then refusing to permit independent scrutiny of the role of senior policy makers; and making the claim, still not repudiated, that President Bush had commander-in-chief authority to order torture.

Still, it is one thing to create an environment in which abuse of detainees flourishes, quite another to order that abuse directly. In 2005 it became disturbingly clear that the abuse of detainees had become a deliberate, central part of the Bush administration's strategy for interrogating terrorist suspects.

President Bush continued to offer deceptive reassurance that the United States does not "torture" suspects, but that reassurance rang hollow. To begin

with, the administration's understanding of the term "torture" remained unclear. The United Nations' widely ratified Convention against Torture defines the term as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person." Yet as of August 2002, the administration had defined torture as nothing short of pain "equivalent...to that...associated with serious physical injury so severe that death, organ failure, or permanent damage resulting in a loss of significant body function will likely result." In December 2004, the administration repudiated this absurdly narrow definition, but it offered no alternative definition.

The classic forms of torture that the administration continued to defend suggested that its definition remained inadequate. In March 2005, Porter Goss, the CIA director, justified water-boarding, a sanitized term for an age-old, terrifying torture technique in which the victim is made to believe that he is about to drown. The CIA reportedly instituted water-boarding beginning in March 2002 as one of six "enhanced interrogation techniques" for selected terrorist suspects. In testimony before the U.S. Senate in August 2005, the former deputy White House counsel, Timothy Flanigan, would not even rule out using mock executions.

Moreover, President Bush's pronouncements on torture continued to studiously avoid mention of the parallel prohibition of cruel, inhuman, or degrading treatment. That is because, in a policy first pronounced publicly by Attorney General Alberto Gonzales in January 2005 Senate testimony, the Bush administration began claiming the power, as noted above, to use cruel, inhuman, or degrading treatment so long as the victim was a non-American held outside the United States. Other governments obviously subject detainees to such treatment or worse, but they do so clandestinely. The Bush administration is the only government in the world known to claim this power openly, as a matter of official policy, and to pretend that it is lawful.

The administration was so committed to this policy that, in October, Vice President Dick Cheney presented the sad spectacle of the nation's second highest ranking official imploring the Congress to exempt the CIA—the part of the U.S. government that holds the "high value" detainees—from a leg-

islative effort to reaffirm the absolute ban on cruel, inhuman, or degrading treatment.

While proclaiming the power to subject some detainees to “inhuman” treatment, President Bush somehow managed with a straight face still to insist that his administration would treat all detainees “humanely.” He never publicly grappled with this obvious contradiction, and in August, it became clear why. The former deputy White House counsel, Timothy Flanigan, revealed in Senate testimony that, in the administration’s view, the term “humane treatment” is not “susceptible to a succinct definition.” In fact, he explained, the White House has provided no guidance on its meaning.

The Bush administration’s effort to prevent Congress from unambiguously outlawing abusive treatment was hardly an academic matter. Lt. Gen. Michael V. Hayden, the deputy director of national intelligence and one of those who oversees the CIA, explained to human rights groups in August that U.S. interrogators have a duty to use all available authority to fight terrorism. “We’re pretty aggressive within the law,” he explained. “We’re going to live on the edge.”

A Compromised U.S. Defense of Human Rights

Needless to say, this embrace of abusive interrogation techniques—not as an indirect consequence of official policy but as a deliberate tool—has significantly weakened the U.S. government’s credibility as a defender of human rights.

In 2005, even the exception proved the rule. An important success story in late 2004 and early 2005 was the Orange Revolution in Ukraine, where U.S. pressure for reform and support for Ukrainian civil society and political pluralism played a positive role. The United States was able to help in part because Eastern Europe is one of the few parts of the world where the United States, because of its long history of opposing Soviet domination, is still acknowledged and admired as a credible proponent of democracy and human rights. When the Ukrainian government tried to undermine support for the democratic opposition by linking it to U.S. actions, many ordinary

Ukrainians paid no heed. The same dynamic no longer obtains in many parts of the world.

In the Middle East, for example, the Bush administration stepped up efforts to engage Arab countries on a range of rights issues, something that no past U.S. administration has done. The limited pressure it brought to bear helped create more space for some dissidents and genuinely independent political and civic organizations. But its success was circumscribed by its own human rights record.

One indication of that credibility problem was that when the Bush administration tried to promote certain rights, the poverty of its own record meant it largely had to avoid the term “human rights.” Instead, it supported “democracy” and “freedom”—important goals, but ones that do not encompass the full range of human rights protections and are notably devoid of reference to international legal standards that might inconveniently bind the United States.

The Bush administration is not the first U.S. government to misuse such concepts. The Reagan administration, as early as 1982, trumpeted “democracy” and “freedom” in places like El Salvador. Death squads raged at the time, but the Salvadoran government’s willingness to hold elections qualified it, in the Reagan administration’s view, for a pass on its human rights record.

The Bush administration’s efforts in 2005 remained similarly focused mainly on the electoral realm. In Egypt, U.S. officials raised a range of political rights issues. The administration, for example, usefully pressed President Hosni Mubarak to allow competitive presidential elections for the first time. When the Egyptian government imprisoned the leading opposition candidate, Ayman Nour, on trumped-up charges, U.S. Secretary of State Condoleezza Rice cancelled a February visit to Egypt. Deputy Secretary of State Robert Zoellick warned that the administration would withhold \$200 million in U.S. aid until Egypt released Nour. President Bush at the time “embraced” President Mubarak’s decision to hold competitive elections and criticized beatings of dissidents by ruling-party vigilantes. Secretary Rice even went so far as to urge replacement of Egypt’s decades-old emergency

rule, the legal backdrop for many of Egypt's worst abuses, with the rule of law.

But the Bush administration's own record of mistreating detainees forced it to limit the kind of democracy it promoted. Other than the State Department's legally mandated once-a-year human rights report, the administration made no public protest (and no known private protest) about the Egyptian government's extensive and well documented use of torture. As one State Department official told Human Rights Watch, "how can we raise it when the Bush administration's policy is to justify torture?"

A similar dynamic was evident with respect to Saudi Arabia. The U.S. Congress conducted hearings on religious freedom in Saudi Arabia and discussed the Saudi Accountability Act, which seeks to compel compliance with anti-terrorism measures and a ban on hate speech. But, with one notable exception, discussed below, there was rare mention of such unseemly topics as domestic repression through torture and arbitrary arrest of Saudi dissidents, let alone such matters as executions, floggings, and routine discrimination against and denial of justice to Saudi women and migrant workers.

In Iraq, where the United States also made promotion of democracy the cornerstone of its efforts, U.S. authorities in November helped uncover and shut down an Iraqi Interior Ministry secret detention and torture center in Baghdad, but the administration's actions won it little praise in light of its own practices in Iraq and elsewhere.

British Complicity with Torture

The United States is the only major Western democracy to openly espouse detainee abuse by its own interrogators, but Britain has adopted policies that would make it complicit in torture. In 2005, Prime Minister Tony Blair proposed sending terrorist suspects to governments that have a history of torturing such people—a policy that the United States had already adopted, in a practice sometimes referred to as "extraordinary rendition."

The U.N. Convention against Torture prohibits without exception sending anyone to a country "where there are substantial grounds for believing that

he would be in danger of being subjected to torture.” Yet, following precedents set by the Bush administration, the Blair government proposed sending terrorist suspects to places such as Libya, Jordan, Algeria, Morocco, and Tunisia—all governments with notorious records of torturing radical Islamists.

The fig leaf offered to cover this complicity with torture had two parts. First, the British government proposed signing memoranda of understanding in which the government receiving a suspect would promise not to mistreat him. General agreements of this sort were reached with Libya and Jordan and were in the works as of late 2005 with other North African countries. Second, the agreements allowed for monitors to periodically check how detainees were being treated.

But these agreements, known as diplomatic assurances, are not worth the paper they are written on. All the governments in question have ratified the Convention against Torture—a major multilateral treaty—yet routinely flout it. Why would they pay greater heed to a bilateral agreement which, because of the embarrassment of non-compliance, neither the sending nor the receiving government has any incentive to enforce?

The monitoring will not help either. Round-the-clock monitoring might deny torturers an opportunity to ply their trade, but the Blair, like the Bush, government contemplates only periodic monitoring. Occasional monitoring would permit a general sense of how detainees across an entire institution are treated, as the International Committee of the Red Cross obtains during its prison visits, because detainees can benefit from safety in numbers to report abuses anonymously and thus minimize the risk of retaliation.

But episodic visits cannot protect an isolated detainee. Indeed, they are cruel. Imagine the awful dilemma of an isolated torture victim receiving a monitor. Does the victim pretend he was never mistreated, denying the shattering experience of torture? Or does he report his mistreatment, knowing that the account will be traced right back to him and, in retaliation, he might be returned to the torture chamber? No detainee should be made to face that dreadful choice. For such reasons, the U.N. Committee Against Torture

ruled in May that Sweden violated the anti-torture convention by relying on diplomatic assurances to send a terrorism suspect, Ahmed Agiza, to Egypt, a country with a long record of torturing Islamic radicals. Agiza was, predictably, tortured.

This plan's incompatibility with international law led the British government to try to change the law. At the U.N. General Assembly in New York, the British delegation, working with the United States, objected to a resolution affirming that diplomatic assurances do not relieve governments of the duty never to send suspects to countries that are likely to torture them. At the European Court of Human Rights in Strasbourg, the British government contended that this duty should be balanced against security needs—that an absolute prohibition should be made conditional. Britain encouraged other European governments to join it in this retrograde position.

Canada's Ambivalent Position

The Canadian government, to its credit, held probing, public hearings in 2005 into the role played by Canadian officials in Washington's shipment of Maher Arar, a Canadian citizen of Syrian extraction, to Syria, where Syrian authorities predictably tortured him—despite the U.S. government's claim to have received assurances from Syria that it would not mistreat him. In this respect, Canada showed significantly greater concern with a single act of possible complicity in torture than the U.S. government has shown about its systematic use of torture. Yet a Canadian law permits the detention and expulsion of immigrants and refugees on national security grounds to countries where they risk torture. The Supreme Court of Canada was due to review the constitutionality of this law in early 2006 to determine whether it infringes the Canadian Charter of Rights and Freedoms. The U.N. Human Rights Committee, in reviewing Canada's record, said that such transfers "can never be justified," echoing concerns expressed in May by the U.N. Committee against Torture when it reviewed Canada's compliance with the torture convention.

Detention

The Bush administration continued in 2005 to detain large numbers of people without charge or trial and without regard to the laws of armed conflict. Sometimes it forcibly “disappeared” them into one of its secret overseas detention facilities, making them highly vulnerable to torture. Under customary laws of war and the Geneva Conventions, a state can detain enemy combatants without trial until the end of an armed conflict. But the Bush administration extended that principle beyond recognition. It continued to detain former Taliban soldiers even though the war with the Afghan government, on whose behalf they had fought, ended at least by June 2002 after the government of Hamid Karzai formally took office. It continued to snatch suspects from places far from any traditional battlefield—Italy, Macedonia, Bosnia, Tanzania, the United States—without regard to their criminal-justice rights.

Under the administration’s theory, it can, on its own say-so, without any judicial review, seize anyone anyplace in the world and hold him until the end of the “global war against terrorism,” which may never come. That radical theory shreds the most basic due process protections. However, in November 2005, when it appeared that the U.S. Supreme Court might test this theory in the case of Jose Padilla, a U.S. citizen arrested in the United States and held for more than three years as an enemy combatant, the Bush administration suddenly decided to charge him criminally, in an apparent effort to avoid judicial review.

Other governments have not made such extreme claims, but they nonetheless have sought to detain terrorist suspects without trial—often on the basis of secret evidence of dubious reliability. Canada uses “security certificates” to detain indefinitely non-citizens said to present a threat to national security. Britain and Australia introduced legislation in 2005 allowing for “control orders” to subject suspects to house arrest and other restrictions without trial for renewable one-year periods. The British government also sought to extend the period that terrorism suspects can be detained without charge from fourteen days (already the longest in Europe) to ninety days. Parliament rejected the proposal but appeared willing as of late November to double the

detention period to twenty-eight days. These policies further discredited these governments as human rights defenders. At this writing, for example, Jordan reportedly was modeling a draft anti-terrorism law on recent British legislation.

Counterterrorism as an Excuse for Silence

The same calculus that led the Bush administration to adopt policies of abusive interrogation and arbitrary detention—the belief that human rights can be sacrificed in the name of fighting terrorism—led it to disregard the promotion of democracy, let alone human rights, with respect to governments that it viewed as allies in its “global war against terrorism.”

Pakistan was a case in point. Responding to a question about his broken promise to step down as army chief by the end of 2004, General Pervez Musharraf, the Pakistani president, said to the *Washington Post* in September 2005, “Let me assure you that President Bush never talks about when are you taking your uniform off.” The Bush administration offered no public refutation. President Bush did criticize General Musharraf for refusing in June to grant a visa to Mukhtar Mai, a victim of a retaliatory gang rape. But when Musharraf during the same interview in September suggested that Pakistani women get themselves raped to “get a visa from Canada or citizenship and be a millionaire,” the State Department offered only weak platitudes about “encouraging leaders around the world to speak out about the fact that violence against women is unacceptable.” By contrast, Canadian Prime Minister Paul Martin formally objected to the remarks when he met with Gen. Musharraf later that month. “I stated unequivocally that comments such as that are not acceptable and that violence against women is also a blight that besmirches all humanity,” Martin said.

The Bush administration gave a mixed response when, in May, the Uzbekistan government of President Islam Karimov massacred hundreds of protesters in Andijan. On the one hand, the State Department protested the killings, insisted on an international investigation, and helped arrange to airlift to safety 439 refugees who had survived the slaughter. On the other hand, Defense Secretary Donald Rumsfeld resisted calls to withdraw U.S. forces

from the Karshi-Khanabad (K2) military base—a re-supply point for operations in Afghanistan and a foothold in former Soviet Central Asia—despite the inappropriateness of partnering with a military force that massacres its own people. Instead, Karimov beat Rumsfeld to the punch in July when he asked the United States to leave the base.

After its ouster from Uzbekistan, the U.S. still had an opportunity to make a human rights point: it could have withheld the \$23 million in back rent owed for the base as a way of signaling its displeasure with Uzbekistan's ongoing internal crackdown. Instead, in November, the Pentagon decided to pay, apparently because of its hope that doing so might convince Uzbekistan authorities to allow it to maintain overflight rights. Also in November, the State Department refused to list Uzbekistan as a "country of particular concern," despite its extensive violation of religious freedom, and to co-sponsor a resolution condemning Uzbekistan before the U.N. General Assembly. These mixed messages continued a pattern started in 2004, when the State Department rescinded \$18 million in U.S. aid on human rights grounds, only to watch Gen. Richard Meyers, then chairman of the Joint Chiefs of Staff, visit Tashkent and award \$21 million in new assistance. This groveling before Karimov proved futile when, in late November 2005, he denied NATO members the sought-after use of Uzbekistan's land or airspace to support Afghanistan operations.

The Bush administration was also weak on Russia in 2005. Secretary Rice, like her predecessor, Colin Powell, periodically spoke about Russian abuses—the torture and enforced disappearances that have characterized the conduct of Russian forces in Chechnya and President Vladimir Putin's disturbing consolidation of political power at the expense of the legislature, the media, the private sector, and, increasingly, nongovernmental organizations. But President Bush, who was uniquely well positioned to influence Russian President Putin, spoke about such concerns only in broad platitudes. Receiving President Putin at the White House in September, President Bush mentioned their joint work "to advance freedom and democracy in our respective countries and around the world" but nothing about any specific human rights abuse in Russia. At the same time, President Bush praised the Putin government as "a strong ally...fighting the war on terror," noting that

the two governments “have a duty to protect our citizens, and to work together and to do everything we can to stop the killing.”

The Bush administration in November waived congressionally imposed restrictions on arms sales to Indonesia. The restrictions had been imposed following the Indonesian military’s atrocities in East Timor in 1999, yet the administration lifted them without any senior Indonesian military official having been held accountable for these crimes. Even though President Susilo Bambang Yudhoyono was democratically elected, the Indonesian military remains unreformed. The administration seemed intent nonetheless on rewarding Indonesia for its role in combating terrorism.

In Egypt, where as already noted the administration expressed support for some basic freedoms but overlooked torture and arbitrary detention, even its vision of competitive elections was limited. While it spoke out in advance of the presidential election and helped secure the release of Nour, leader of the liberal Ghad Party, it ignored sustained government and government-inspired attacks on the party in the run-up to November parliamentary elections. The administration’s behavior during the parliamentary elections was even worse, possibly in part reflecting its displeasure at the success in those elections of independent candidates associated with the banned Muslim Brotherhood, Egypt’s leading opposition political group, which won dozens of seats in early rounds. As events unfolded, White House and State Department officials repeatedly passed up opportunities to criticize mounting government-inspired violence, ballot-stuffing, and vote-buying. And the administration at no point questioned or criticized the Egyptian government’s continuing ban on the Muslim Brotherhood.

Similarly, while the administration deserves credit for seeking and helping win the release of three jailed Saudi political reformers in 2005 (the notable exception mentioned above), it put no real pressure on the Saudi royalty to democratize beyond a token, extremely circumscribed municipal election that excluded women voters and candidates. It cited Saudi Arabia for restrictions on religious practice and tolerance of trafficking in sex workers and laborers but waived the application of sanctions. When President Bush welcomed then-Crown Prince (now King) Abdullah to his Texas ranch in April, the

administration said that it “applauds” the municipal elections and “looks for even wider participation in accordance with the Kingdom’s reform program.” In the joint statement, however, Saudi Arabia merely “recognize[d]” the freedoms that make elections meaningful; it did not vow to protect them in law or abide by them. President Bush added nothing on the subject.

When Secretary Rice visited Riyadh in June, she offered none of the strong language used in Cairo the previous day about “the right to speak freely. The right to associate. The right to worship as you wish. The freedom to educate your children—boys and girls. And freedom from the midnight knock of the secret police.” By November, at the inauguration of the first Saudi-U.S. strategic dialogue in Riyadh, democracy, human rights and political reform had safely retreated from the public eye to bilateral discussions behind closed doors. Instead, the public emphasis was on Saudi cooperation on fighting terrorism and limiting the price of oil.

The Bush administration did somewhat better with respect to China. Although trade and security concerns featured prominently on Washington’s agenda for Beijing, the U.S. government did offer at least rhetorical support for human rights. During a meeting at the United Nations in September, President Bush gave Chinese President Hu Jintao a list of political prisoners of concern to the United States, but the Chinese government released none of them. Indeed, it cracked down on dissidents in advance of President Bush’s November visit to Beijing, eliciting a protest from Secretary Rice. During that visit, President Bush highlighted the issue of religious freedom by visiting a Protestant Church, but the church was a state-sanctioned one, not one of the unapproved “house churches” that are the subject of Chinese persecution. President Bush did express his “hope” that the Chinese government “will not fear Christians who gather to worship openly,” but it is unclear whether that plea was meant to embrace the secretive meetings sometimes required for worship in house churches.

Before arriving in China, President Bush spoke of the rise of freedom and democracy in Asia, including China. He said: “The people of China want more freedom to express themselves, to worship without state control, to print Bibles and other sacred texts without fear of punishment.” Once he

arrived in China, President Bush settled for citing as progress that President Hu had mentioned the term “human rights” in his remarks.

The willingness to sacrifice basic human rights principles in the name of fighting terrorism hit a new low around the issue of enforced disappearances. “Disappearances” occur when governments seize people without acknowledging their detention, leaving them highly vulnerable to torture or execution, and their families in a painful limbo, knowing nothing of the fate or whereabouts of their loved ones.

A long-term effort at the United Nations to complete a treaty outlawing “disappearances” reached a milestone with the adoption of a draft by a working group of the Commission on Human Rights. Several Latin American governments sponsored the effort, including Argentina, Chile, Mexico, and Uruguay, because they had suffered a devastating plague of “disappearances” in the 1970s and 1980s. France also played an important leadership role. To their disgrace, the United States and Russia strongly opposed the effort, not least because each had begun using forced disappearances itself—Russia in Chechnya, where young men suspected of being rebels or their allies routinely “disappear” after their arrest by Russian forces, and the United States in the secret detention facilities that it maintains in allied countries, where twenty-six people are known to have “disappeared” and some dozen others are suspected held. Canada contributed to this shameful opposition, not because it is known to forcibly “disappear” people, but apparently because Prime Minister Martin, eager to improve relations with the United States that had been strained under his predecessor, decided to run interference for one of his neighbor’s unsavory practices.

The European Union

Washington was not the only cause of the global leadership void on human rights. The European Union might have filled the gap, but instead it continued to punch well below its weight, due in part to institutional disarray and in part to competing priorities.

The need to achieve consensus among twenty-five members was part of the problem. The proposed new constitution would have streamlined foreign policy decisions, easing the need for unanimity among its members as well as strengthening the E.U.'s chief foreign policy representative. However, the constitution suffered a major setback when voters rejected it in referenda held in France in May and the Netherlands in June.

The continuing need for unanimity, combined with an opaque decision-making process and a lack of leadership among E.U. members, produced a dynamic that favored muted responses toward human rights violations in third countries. However, with regard to E.U. accession countries, a transparent process coupled with the ability of any single member to block progress for an aspiring state tended to raise the bar on human rights. Positive pressure for improvement was thus exerted, most notably on Turkey.

When it came to external protests or interventions, however, the E.U.'s decision-making procedures tended to work the other way. When E.U. governments had already agreed to common pressure, as in the arms embargo imposed on China following the Tiananmen Square massacre of 1989, their consensus rules favored perpetuation of the status quo, even though France and Germany, among others, sought to end the embargo. More commonly, though, in the case of new initiatives, E.U. procedures favored weak responses.

The E.U. managed to achieve consensus and play a positive role by sponsoring critical resolutions at the United Nations on human rights in the DRC, North Korea, Sudan, Uzbekistan, and Turkmenistan. But the E.U. generally failed to give teeth to its human rights protests by effectively using its many trade and cooperation agreements to press for human rights improvements in countries benefiting from massive E.U. assistance and trading privileges.

For example, the E.U. continued to see its relationship to the Middle East and North Africa primarily in terms of trade and economic assistance. Most governments in the European-Mediterranean Cooperation Area have concluded agreements with the E.U. that require respect for human rights and the rule of law. Yet the E.U. rarely, and never publicly, enforced these human

rights conditions by, for example, detailing concrete, country-specific steps that a government should take to put it on a positive trajectory, let alone outlining a timeframe for required reforms and spelling out the consequences of non-compliance.

A good illustration was the Egypt-E.U. Association Agreement, which entered into force in June 2004. The E.U. has yet to invoke the clause premising the entire agreement on “respect for human rights and democratic principles.” The same could be said of E.U. agreements adopted with Tunisia in 1999 and Israel in 2000. E.U. governments are the largest donors to the North Africa region, giving them plenty of potential influence, but they seldom used it in 2005. Conveniently, the E.U. tended to claim instead that trade and quiet diplomacy on human rights would yield more liberal regimes, but that left the region’s simmering civil society movement for reform without the overt backing of the powerful E.U.

With respect to Africa, the European Union did not hesitate to act against a pariah state such as President Robert Mugabe’s in Zimbabwe. There, it adopted a series of punitive measures, including an arms embargo, freezing of assets, a visa ban, and suspension of all non-humanitarian aid. Key European governments also continued to supply peacekeeping troops in the Ivory Coast and logistical support to African Union troops in Darfur. But the E.U. did not act with similar forcefulness when it came to abuses by governments with which it maintained closer relationships. In Angola, Ethiopia, Rwanda, and Uganda, for example, the E.U. condemned abuses but did not put the governments on notice that they were in serious breach of their human rights obligations, including those written into the agreement that regulates European assistance to such countries. In this respect, the E.U. seemed increasingly to favor the status quo in Africa.

Individual European governments were not better in their own policies toward Africa. Britain’s Prime Minister Blair invited Ethiopian Prime Minister Meles Zanawi as one of only two African heads of state or government on Blair’s Commission for Africa, but Britain was silent about Meles’s repression of his political opposition. Similarly, Belgium continued strong support for Rwandan President Paul Kagame despite his government’s

repression at home and responsibility for atrocities in the neighboring DRC. Meanwhile, although the French government maintained its troop presence in the Ivory Coast, its policy of “tactical disengagement” from much of the rest of the African continent posed potential dangers for human rights protection. On a continent where better human rights protection frequently depends on greater external commitment, the decline of French willingness to engage raised the specter of more hardship in francophone African countries such as the DRC, Guinea, and the Ivory Coast. This diminished European activism on Africa paralleled China’s increasing engagement with the continent on terms that attached no importance to human rights.

One positive exception to the E.U.’s disregard for other government’s binding human rights commitments with it came in the case of Uzbekistan. It took more than four months, but in October, the E.U. finally decided to partially suspend its partnership and cooperation agreement with Uzbekistan because of President Karimov’s refusal to permit an international inquiry into the Andijan massacre. This was the first time the E.U. had suspended any such agreement on human rights grounds—an important precedent on which to build but also a sad commentary on the lack of seriousness with which the E.U. typically has treated the legally binding human rights requirements in all such agreements.

The E.U. also took the lead in the successful effort to condemn Uzbekistan before the U.N. General Assembly. In addition, the E.U. imposed an arms embargo on Uzbekistan and a visa ban on a dozen senior officials believed to have played a role in the massacre—though, incomprehensibly, not on President Karimov himself. Germany also allowed the Uzbek interior minister, Col. Gen. Zakirjan Almatov, one of those believed to have ordered the Andijan massacre, to enter Germany for medical treatment despite the travel ban. As the point of the travel ban was to deny such people the privilege of precisely this kind of visit, the German behavior called into question whether the sanctions were really part of a coherent strategy for seeking change in Uzbekistan.

Apart from its trade and aid relationships, the E.U. in recent years has begun to play a positive role in mounting overseas field operations in conflict zones.

By current count, there are at least nine active European Security and Defence Policy missions. The E.U. helped secure a peace accord to end the vicious conflict in Aceh and provided monitors to oversee its implementation, including respect for human rights. It provided police to oversee the border crossing at Rafah following the Israeli disengagement from the Gaza Strip. And it provided rule-of-law assistance in places such as Georgia and the DRC.

Given the E.U.'s difficulty speaking in a common voice, the member states might have treated the E.U. common position on external human rights matters as a floor rather than a ceiling—as the minimum they would do for human rights rather than the maximum. That might have especially been the case with respect to such important countries as Russia, China, the United States, and Saudi Arabia—all countries with which E.U. members have active individual foreign policies in addition to their common position. For the most part, though, the lack of human rights leadership toward these countries that stymied effective common action was also visible in bilateral dealings.

The E.U. position on Russia in 2005 made the U.S. defense of human rights seem vigorous. Business, energy, and other political interests dominated E.U. concerns, abetted by an unseemly competition among British Prime Minister Blair, French President Chirac, and former German Chancellor Schroeder to proclaim the closeness of their relationship with Russian President Putin. Germany, for example, was preoccupied with negotiating the construction of a gas pipeline from Russia, which was agreed to in September, and sought Russia's support for its bid for a permanent seat on the U.N. Security Council. Schroeder, who reportedly met with Putin thirty-seven times during the years he was chancellor, continued to make little public reference to Russia's human rights record. France sought to maintain warm relations to facilitate cooperation on the Security Council, especially with regard to the Middle East.

At an E.U.-Russia summit in October hosted in London by the British presidency, the assembled leaders, according to the E.U.'s account, merely “addressed in a constructive spirit internal developments in the E.U. and

Russia, including the situation in Chechnya and the forthcoming elections there,” and “welcomed” an E.U. decision to provide financial assistance to the North Caucasus as “a further sign of E.U. willingness to cooperate in the region.” There was no hint in this embarrassingly positive statement that the central problem in Chechnya was Russia’s refusal to end atrocities by its forces. Along similar lines, the E.U. failed to sponsor a resolution critical of Russia’s rights record in Chechnya at the U.N. Commission on Human Rights.

With respect to China, business and other political interests again dominated. For example, France and Germany pressed to lift the arms embargo toward China that had been imposed in protest of the Tiananmen Square massacre, even though no progress had been made in holding accountable those officials who ordered the killing, and the Chinese government refused to provide information about the number killed, injured, and arrested. The embargo stayed in place because of strong American security objections, supported by Czechoslovakia, Denmark, Finland, the Netherlands, Poland, and Sweden, among others. Britain initially supported the U.S. position, reversed its position under pressure from France and Germany, and then reversed its position again after Chinese threats against Taiwan made lifting the embargo untenable. In November, Germany, under its new chancellor, Angela Merkel, came out in favor of continuing the embargo, leaving little prospect for the embargo to be lifted in the foreseeable future. Meanwhile, the E.U. continued to refuse to sponsor a resolution on China at the U.N. Commission on Human Rights.

As for Saudi Arabia, German Chancellor Schroeder visited it without public mention of political reforms. British Prime Minister Blair conducted his visit secretly. The British government pressed hard for Saudi Arabia to buy arms from British manufacturers while remaining virtually silent on the kingdom’s abysmal human rights record. France received Crown Prince Abdullah, an occasion that President Chirac used to speak in glowing terms about “reforms,” calling them “an ambitious program of transformation.” He praised the above-noted municipal elections, with their circumscribed scope and absence of women voters or candidates, as well as “recent developments in the Consultative Council,” which had merely expanded from 120 to 150

members, all appointed, with no women and only a minor increase in minority representation (from two to four seats).

As for trans-Atlantic relations with the United States, the E.U. understandably was eager to repair the damage done by disagreements triggered by the invasion of Iraq, but its strategy seemed to include largely ignoring U.S. rights transgressions. For most of the year, the E.U. collectively utterly failed to raise concerns about the U.S. practice of “disappearing” terrorist suspects. The sole exceptions were national investigations opened in Italy, Germany, and Sweden into the CIA’s role in seizing or luring suspects from their soil and sending them to Egypt or Afghanistan. The E.U. became more assertive only in the face of broad public outrage triggered by evidence that was made public in November suggesting the United States had maintained secret detention facilities near airports in Poland and Romania. Only then did several national parliaments and prosecutors launch investigations, the European Commission opened an informal inquiry, and the E.U. foreign ministers requested clarification from the United States about CIA activities on E.U. territory. The Council of Europe began a formal inquiry and the council’s secretary-general sent a rare formal request for information about the matter to all forty-five member states.

After successfully securing custody of its nationals held in Guantánamo, Britain went so far as to become an apologist for the United States. Britain’s 2005 human rights report spoke of “five substantial [U.S.] inquiries” into prisoner abuse which “concluded that the incidents of abuse were the result of the behaviour of a few sadistic individuals and a failure of oversight by commanders, rather than the result of US policy or procedures.” In fact, as noted, U.S. *policy* has been to subject detainees to cruel, inhuman, and degrading treatment, if not torture. Meanwhile, none of the dozen self-investigations into past abuses launched by the Bush administration was independent, let alone substantial: only one examined the role of senior Pentagon officials, and it was run by members of Defense Secretary Rumsfeld’s own Defense Policy Board Advisory Committee; only one looked at the role of the CIA, and it was run by the CIA’s own inspector general; and none looked at the role of senior White House officials. The Bush administration opposed creating an independent, bipartisan panel on interrogation abuses similar to

the September 11 Commission and refused to appoint a special prosecutor, even though Attorney General Alberto Gonzales, as a central architect of the administration's interrogation policy, had an obvious conflict of interest.

Closer to home, the E.U. threatened to flout human rights standards in its own treatment of refugees and migrants. International refugee law requires that a government give any asylum-seeker a fair determination of his claim and protect him from return to persecution or torture. But in an effort to deter asylum-seekers from seeking refuge in Europe, the E.U. pursued policies that would shift to neighboring countries—such as Libya and Ukraine—responsibility for processing asylum claims, hosting refugees, and managing migration, despite these countries' demonstrated lack of capacity to protect even the basic rights of asylum-seekers and migrants in their territories, let alone to provide a fair determination of asylum claims. Libya, for example, does not even have laws by which its judiciary could assess claims for asylum.

The Nefarious Role of Russia and China

Just as nature abhors a vacuum, so governments fill leadership voids. In this case, Russia and China have been all too eager to assert themselves in the absence of firm Western leadership on human rights, but their interventions have been anything but helpful. Uzbekistan illustrates the problem. Less than two weeks after the Uzbekistan government's massacre of protestors in Andijan in May, China welcomed Uzbek President Karimov to Beijing for a state visit, complete with a 21-gun salute. Not to be outdone, in November, just as Uzbekistan was completing a show trial to supposedly demonstrate that its troops never committed a massacre in Andijan, Russia invited Karimov to Moscow to initial a mutual-defense pact. In July, the secretary general of the Shanghai Cooperation Organization, which includes China, Russia, and several Central Asian countries, blamed the Andijan massacre on "terrorists" rather than Uzbekistan's own security forces, while Presidents Putin and Hu announced billion dollar economic packages for Uzbekistan.

Russia has been playing a similar role throughout the former Soviet Union. Fearful of the democratic currents that led to the overthrow of once-allied governments in Georgia, Ukraine, and Kyrgyzstan, Russia threw its active

support behind such abusive partners as Presidents Alexander Lukashenko of Belarus and Ilham Aliiev of Azerbaijan. For example, Russia maintained that the fraudulent November 2004 presidential election in Ukraine was free and fair, with Putin calling then-Prime Minister Viktor Yanukovich to congratulate him on his “victory” soon after the voting ended. Following the November 2005 parliamentary elections in Azerbaijan, which were said to be won by Aliiev’s party, President Putin described them as “successful” even though the Organization for Security and Cooperation in Europe (“OSCE”) found that the elections failed to meet international standards for democratic elections.

Russia also has tried to diminish the positive influence of the OSCE, which has played a central role in pressing for free and fair elections throughout the former Soviet Union, in favor of a greater emphasis on security issues. Russia has suggested that such OSCE “human dimension” operations as the Office for Democratic Institutions and Human Rights and the Office of the High Commissioner for National Minorities should be dealt with by “consensus” among member states, which would empower Moscow to veto any initiative it did not like. Russia also threatened in October to use a procedural maneuver that effectively would halt rapid progress toward a credible U.N. Human Rights Council to replace the discredited U.N. Commission on Human Rights.

As for China, its economic growth and quest for natural resources combined with its stated policy of “non-interference in domestic affairs” led to its bolstering of corrupt and repressive regimes in Africa, Latin America, and Asia, to the disadvantage of the people of these regions. Willing to do business with anyone, the Chinese government threw an economic lifeline to such highly abusive governments as those of Sudan and Zimbabwe. In purchasing oil and making massive oil-backed loans, Beijing also closed its eyes to corruption on the part of unaccountable governments such as Angola. This massive infusion of cash helped Angola resist anti-corruption measures sought by the International Monetary Fund. China provided financial and military support to the Sudanese government even as it was engaged in massive ethnic cleansing in Darfur, while Beijing successfully watered down U.N. Security Council resolutions threatening sanctions against Khartoum for its Darfur

atrocities. The most deprived people of Africa suffered further because Beijing, in its dealings with their governments, showed such indifference to their plight.

Increasingly China is a donor as well, but without the concomitant pressure to respect human rights that, at least theoretically, accompanies Western aid. As President Hu put it: “Providing African countries with aid without any political strings... is an important part of China’s policy towards Africa.” China’s view that human rights conditions constitute unjustified political interference significantly reduces the chance that its aid will benefit those people who need it most.

Darfur and the African Union

The continued deployment of African Union troops into Darfur in 2005 unquestionably saved lives. However, the belated decision by the A.U.—a new, still poorly equipped organization—to allow Western countries to provide logistical and other support meant that many lives that could have been saved were lost. The contingent of seven thousand A.U. troops and civilian police that by October had finally been deployed in Darfur was not nearly large enough to create the conditions of security needed for some two million forcibly displaced people to return home safely.

Much of the continued violence in Darfur was due to the Sudanese government, most notably its refusal to disarm, demobilize, and end the impunity with which its proxy militia, the “Janjaweed,” operates in Darfur. The Sudanese government also placed many obstacles in the path of the A.U. force, such as refusing for months to allow the A.U. to import armored personnel carriers for the protection of its troops and civilians. However, the A.U. itself must share part of the blame. Its interpretation of its mandate was anemic—it showed too little willingness to move aggressively when necessary to protect people. By insisting on handling Darfur itself, moreover—a wish that the international community, preoccupied elsewhere, was all too willing to grant—the A.U. relieved more powerful governments of any immediate pressure to deploy their own troops.

The U.S., Canadian, and European governments played supportive roles in Darfur. Officials spoke repeatedly about the continuing killing and rape and sent emissaries regularly to Khartoum and Darfur, but preoccupation with Iraq and Afghanistan made the contribution of U.S., E.U., or NATO troops a political non-starter. As a result, Western governments and the international community as a whole left Darfur in the hands of A.U. troops and failed to take the opportunity to forcefully implement the newly endorsed international “responsibility to protect” civilians at grave risk. By year’s end, there was still no prospect that the forcibly displaced residents of Darfur would be able to return home safely and that “ethnic cleansing” would be reversed.

If the A.U. cannot quickly field the substantially larger force needed to uphold a full protective mandate and to make possible the safe return of displaced people, the international community has a duty to send in troops to reinforce the A.U. military and civilian presence, if necessary under a U.N. flag. Meanwhile, the international community must put intense pressure on the Sudanese government to permit a larger force, if necessary involving non-African troops, and to stop obstructing the protective work of those forces that are deployed. In a troubling sign, the African Union itself defused that pressure by helping to block a vote in November at the U.N. General Assembly that would have condemned Sudan for its continuing responsibility for atrocities in Darfur.

At this writing, the African Union was facing a substantial additional challenge with respect to Darfur: its next scheduled summit was to be held in January 2006 in Khartoum, with Sudan seeking the A.U. presidency. If Sudan’s President El Bashir indeed were to lead the A.U., its mission in Darfur would face unsustainable contradictions, and civilians in Darfur would be at greater risk than at any time since the A.U. first deployed there. Allowing a murderous government such as Sudan’s to lead the A.U. would make a travesty of the A.U.’s stated commitments to human rights and undermine the credibility it needs to work effectively throughout the continent.

In creating the African Union, African nations compare favorably with nations in regions such as Asia and the Middle East that continue to lack any

comparable multilateral mechanism for addressing conflict and promoting human rights. At the same time, the A.U. continues to suffer from the cronyism and lack of principle that plagued its predecessor, the Organization of African Unity. The A.U. made modest interventions in Burundi, Togo, Zimbabwe, and the DRC in 2005. Initially acting effectively in Togo, the A.U., and especially Nigerian President Olusegun Obasanjo, condemned a coup in February and threatened to impose sanctions when Faure Gnassingbe tried to have himself installed as president upon his father's death without an election. However, when elections were held some two months later, the A.U. failed to condemn well documented intimidation, violence, and massive vote-rigging.

The A.U., supported by a United Nations peacekeeping force, facilitated a significant improvement in Burundi, where a vicious civil war has substantially waned. On the other hand, the A.U. has managed only to dispatch emissaries to President Mugabe of Zimbabwe, without putting meaningful pressure on him, even as, beginning in May, he ordered the politically motivated destruction of thousands of homes in urban shantytowns, creating a humanitarian crisis. In the DRC, the A.U. has spoken of addressing the politically sensitive issue of foreign combatants in the country but has yet to act. In the Ivory Coast, the A.U. has downplayed issues of justice and accountability that are likely to prove essential to a lasting peace. Meanwhile, certain powerful leaders, such as Prime Minister Meles Zenawi of Ethiopia, escaped A.U. pressure altogether, even as he, unwilling to accept opposition gains in the country's first contested elections in May, led the police to kill scores of demonstrators and arrest thousands of opposition supporters.

International Justice

The emerging system of international justice made important strides in 2005, helping to fill some of the gaps left by waning governmental support for human rights. Most notably, the International Criminal Court ("ICC") publicly revealed its first indictments in October. The targets were Joseph Kony and four other leaders of the Lord's Resistance Army ("LRA"), the notorious Ugandan rebel group that has built a military force by kidnapping children

and forcing them to commit all manner of atrocities. The indictments encountered predictable objections from those who said they would disrupt the Ugandan peace process, but most observers judged the peace process moribund anyway—more a device for the LRA to bide time and regroup than a conscientious effort to reach an agreement with the Ugandan government. Indeed, by further delegitimizing the LRA leadership, the indictments will arguably hasten an end to the war by making it politically more difficult for the Sudanese government to continue to harbor the LRA in southern Sudan, particularly as Khartoum cedes power there to the Sudan People's Liberation Army as part of the separate Sudanese peace process.

The ICC received a major boost in March when the U.N. Security Council gave it jurisdiction over atrocities committed in Darfur. The major obstacle to Security Council action was the United States, given the Bush administration's ideological hostility to the court because of the court's theoretical power to prosecute a U.S. citizen for genocide, war crimes, or crimes against humanity committed on the soil of a government that had ratified the ICC treaty. Germany began the process of overcoming that resistance by leading the effort at the Security Council in September 2004 to establish a U.N. commission of inquiry into the ethnic cleansing in Darfur. The commission recommended in January 2005 that the Security Council refer the situation in Darfur to the ICC.

The Bush administration struggled to suggest alternatives to the ICC, from adding a chamber to the overworked International Criminal Tribunal for Rwanda to the unlikely prospect of creating from scratch a brand new African Criminal Court. Washington viewed these alternatives as preferable because, even if less effective, they were less likely to have jurisdiction over Americans. Strong backing for the ICC from many of its African members, as well as the E.U. and particularly France, helped to move beyond these inferior options. Britain also played a useful role in the negotiations. Faced with a choice between granting effective immunity to the killers in Khartoum and accepting ICC jurisdiction over Darfur, the Bush administration, along with China, abstained on the ICC resolution at the Security Council, allowing the resolution to be adopted. Russia voted in favor of the resolution. That vote means that the ICC henceforth has become a realistic option for

prosecuting even tyrants whose governments have not ratified the ICC treaty.

Yet the Bush administration continued to take extraordinary steps to avoid any prospect that the court would exercise jurisdiction over a U.S. citizen. Washington continued to blackmail governments to accept bilateral immunity agreements in which they promise never to send an American to the ICC. And it insisted that non-ICC states parties have exclusive jurisdiction over their nationals in Darfur.

The ICC was never the appropriate tribunal to try Saddam Hussein and his henchmen in the deposed Iraqi government, because they committed the bulk of their crimes before July 1, 2002, when the ICC's jurisdiction took effect. Yet fear that new international tribunals might legitimize multilateral justice was part of the reason that the Bush administration insisted on trying the former Iraqi leadership before an Iraqi-led tribunal. The administration stuck stubbornly to that decision in 2005, even though the Iraqi Special Tribunal found itself plagued with problems, including its susceptibility to political interference by the new Iraqi government, its members' lack of experience with complex trials, the troubling deficiencies in its adopted procedures, and its difficulty in safeguarding the participants in its proceedings. An internationally led tribunal, such as the mixed international-national tribunal used in Sierra Leone, could have overcome most if not all of these difficulties.

Meanwhile, the international Yugoslav tribunal made enormous progress in securing the arrest of indicted suspects. U.S. and E.U. pressure on Serbia yielded the surrender of fourteen people who had been indicted but remained at large between October 2004 and April 2005. With that influx of defendants, 131 suspects had appeared before the tribunal, while only nine suspects remained fugitives, although those at large included such leading figures as the Bosnian Serb wartime army chief, Ratko Mladic, the Bosnian Serb wartime president, Radovan Karadzic, and Croatian General Ante Gotovina.

The Rwandan tribunal also significantly picked up the pace of its prosecutions in 2005, although it continued to focus exclusively on the genocide and,

disturbingly, still had not issued indictments for atrocities committed by the Rwandan Patriotic Front (“RPF”). Spain stepped into this void by launching investigations into some dozen RPF officers. Similarly, Belgium indicted Hissene Habre, the dictator of Chad in the 1980s, whose mass murder and torture are not covered by any existing international tribunal. After having promised repeatedly that he would extradite Habre if the latter was indicted by Belgium, Senegal’s President Abdoulaye Wade suffered a failure of will in November and instead sent the matter to the African Union to resolve.

As for the Special Court for Sierra Leone (“SCSL”), its most important defendant, former Liberian President Charles Taylor, continued to enjoy a comfortable exile in Nigeria. In June 2003, the SCSL unveiled an indictment of Taylor for his role in supporting the barbarous Revolutionary United Front rebels, known for murder, rape, and hacking off the limbs of their many victims during the Sierra Leone civil war.

Nigerian President Obasanjo did a service by providing Taylor refuge in August 2003 to ease him out of Liberia without further bloodshed. But as the U.N. Security Council reaffirmed in November 2005, that refuge was meant to be only temporary. Pleas for Obasanjo to deliver Taylor for trial were also made in the course of 2005 by the European Parliament, in February; the U.S. Congress, in May; the U.N. high commissioner for human rights, in July; and the Mano River Union, consisting of Guinea, Liberia, and Sierra Leone, also in July.

More than two years since Taylor’s flight from Liberia, however, President Obasanjo stubbornly refused to hand him over to the SCSL. Obasanjo said that he would abide by a request from a democratically elected Liberian government to deliver Taylor for trial, but that approach passed the buck to a new government that legitimately may fear retaliation by Taylor’s many violent allies in Liberia. It is to be hoped that Liberian President Ellen Johnson-Sirleaf, newly elected in November, will make such a request, but if Obasanjo were a true statesman, he would take the heat himself rather than hide behind the new Liberian president. The African Union, for its part, should encourage such a move, but rather than seeking a victory for justice and the rule of law—ostensible goals of the African Union—some A.U. leaders in

2005 seemed more worried about setting a precedent that someday might facilitate their own prosecution.

Justice made little progress in East Timor. Due to a lack of political and financial support, the U.N. tribunal there shut down in May, six years after it was established. The tribunal did manage to prosecute and convict a significant number of East Timorese militia members, but the majority of the Indonesians indicted, including General Wiranto, the former Indonesian defense minister and armed forces commander, remained at large in Indonesia with no prospect of trial. In the meantime, both the U.N. Security Council and U.N. Secretary-General Kofi Annan, caving into Indonesia as a regional power and important counterterrorism ally, continued to sit on a report commissioned by the secretary-general that had recommended keeping the tribunal alive. The report had also recommended the establishment of an international criminal tribunal if Indonesia continued to be uncooperative on the justice front, but the Security Council returned the report to the secretary-general without taking action.

The United Nations

Any analysis of the United Nations' human rights role must divide the institution into its two essential parts. On the one hand are the Secretariat and its associated operational agencies, on the other hand is a series of conference halls where the nations of the world meet to address a broad range of issues.

Kofi Annan is clearly the most committed to advancing human rights of any secretary-general the organization has known. For example, through his personal interventions on Darfur (including at least sixteen statements on the situation in 2005), Annan struggled to keep attention focused on the ongoing crisis and to prompt further remedial action. His human rights work was aided by Louise Arbour, a strong and principled high commissioner for human rights, whose work to establish a monitoring mission in Nepal and to report on violence in Uzbekistan was particularly helpful.

Also in 2005, a new report on human security published by the University of British Columbia made a compelling case that international efforts to address

conflicts are saving lives. Failures to address human rights crises naturally continued to capture headlines, but in many places, such as Liberia, where fighting has been curbed and successful elections were held, international intervention helped to end the killing and launch law-abiding democratic governments. The rapid expansion of U.N. preventive diplomacy and peace-keeping missions suggests that a multilateral response to crises sometimes can overcome the leadership void among some of the most powerful U.N. members. However, major-power leadership is likely to remain essential to make meaningful the U.N. summit's endorsement of a "responsibility to protect" civilians at grave risk.

As for the United Nations as a governmental forum, the results were mixed at best. On the positive side, it finally became accepted wisdom that the U.N. Commission on Human Rights had become a shameful embarrassment that discredits the entire organization. With a large number of its fifty-three seats occupied by highly abusive governments, the Commission functioned less to advance human rights than to ensure paralysis, thereby shielding from criticism almost any government (other than Israel), no matter how abusive.

Unfortunately, this growing consensus led to little more than a pronouncement that the Commission must be replaced by a more effective Human Rights Council. As of late November, there was still no agreement on how that Council should be constituted. Most important, much dispute remained about how to improve the quality of the Council's membership.

Much of the problem with the Commission's membership lay with the practice of allowing each region to dictate which governments would occupy its allocated seats without any input from the rest of the world. Each region would typically nominate a "clean slate"—the same number of nominees as available seats—rendering moot the later U.N. election. Because the composition of these slates was thus left to backroom deals, the human rights qualifications of the candidates often played little role in the nomination process. Indeed, because highly abusive governments often placed more importance on avoiding condemnation by the Commission than did rights-respecting governments, they took the horse-trading more seriously and thus tended to prevail.

There are various possible solutions to end this race-to-the-bottom. Most obvious would be to insist that each region nominate more candidates than its allocated slots—perhaps double the number—thus ensuring a real choice when elections occur. Requiring a candidate-by-candidate vote—rather than a vote for an entire slate—would allow the rest of the nations of the world at least the possibility of voting down inappropriate candidates. Requiring candidates seeking election to the Council to secure a two-thirds majority of U.N. member states would make it much less likely that the worst abusers could be elected. Reserving a small number of “at large” seats, available on a first-come-first-served basis to any region that has successfully filled all of its allocated seats, would provide an incentive for upgrading further the quality of the candidates.

The difficulty in resolving these issues and moving forward with creation of a new Human Rights Council left the embarrassing prospect that the Commission, an institution now utterly discredited, might meet again in March and April—not simply to oversee a transfer of responsibilities and disband, but to conduct regular business. Such a collective failure of political will would only provide new ammunition to critics of the United Nations.

The major summit of world leaders convened at the United Nations in September to commemorate the organization’s 60th anniversary was, in many respects, a disappointment. Its most important contribution was giving an official imprimatur to the Canadian-sponsored concept of a “responsibility to protect” people at risk of large-scale loss of life, even though much work remains to implement that commitment, such as creation of a quick-reaction stand-by force. In tacit endorsement of Kofi Annan’s vision that human rights should join security and development as one of three pillars of the U.N. system, the summit also pledged to greatly increase the budget of the Office of the High Commissioner for Human Rights. Efforts to condemn terrorism in all of its forms ran aground on perennial attempts by some to justify deliberate attacks on civilians in cases of national liberation or fights against occupation, and on efforts of many Western governments to exempt the concept of state-sponsored terrorism.

John Bolton, the new U.S. ambassador to the United Nations, played a particularly unhelpful role during the summit negotiations. As the negotiations were concluding, the newly arrived ambassador introduced hundreds of last-minute amendments including many designed to exempt the United States from any binding obligations. The extremism of his interventions opened the door for other governments to indulge their worst tendencies, and seemingly agreed upon compromises, including on many aspects of the Human Rights Council, came undone.

Much blame fell as well on the various obstructionist governments, such as Cuba, Algeria, Zimbabwe, Belarus, Pakistan, Russia, and Venezuela, who profited from the disarray to undermine any initiative that might improve enforcement of human rights standards.

The summit also failed to agree on any plan to expand the U.N. Security Council, including by adding some number of new permanent seats to reflect shifts in power since the 1940s. The competition for those permanent seats proved particularly counterproductive for human rights enforcement, since some of the leading contenders—Germany, Japan, Nigeria, South Africa—were eager not to do or say anything that might offend potential supporters. South Africa's and Nigeria's reluctance to make enemies had a notably deleterious effect on the African Union's human rights activities.

Conclusion

Encouraging as some developments in 2005 were, they could not obscure the many compromises in the defense of human rights that have arisen in the context of the fight against terrorism. There is no doubting that terrorism today poses a serious threat. All governments have a duty to take effective steps to counter this deadly danger. Yet the seriousness of the threat does not justify the flouting of human rights standards to which the response of certain governments has given rise. Many governments have experienced serious security threats, from invasion to civil war, that put the lives of their citizens at risk. The current threat of terrorism is different only in that citizens of the major Western powers appear prominently among the victims. After preaching for many years that all governments should respond to security threats

within the constraints of human rights law, these Western governments should hardly be surprised that hypocrisy alarms ring loudly when they cite security concerns to defend their own human rights transgressions.

Because of the enormous influence of Western governments, and because of their importance as major parts of the global defense of human rights, this official hypocrisy has substantially harmed the human rights cause. It diminishes the persuasive power of these governments when they do rise on behalf of human rights, as it undermines the effective strength of the international standards that they transgress. That these human rights compromises are unnecessary—that they undermine rather than advance the campaign against terrorism—makes the behavior of the major Western powers all the more tragic. There is an urgent need for enlightened leadership—for governmental leaders who still embrace human rights to stand up, reject this misguided approach to fighting terrorism, and reaffirm that even in the face of a serious security threat respect for human rights is good for all.

Washington's role in the ongoing degradation of human rights leadership is especially dangerous. Now that responsibility for the use of torture and inhumane treatment can no longer credibly be passed off to misadventures by low-level soldiers on the night shift, it is time for the Bush administration to acknowledge the wrongfulness of its interrogation policies and to embrace respect for human rights as a moral, legal, and pragmatic imperative. Pressure will be needed, both from the citizens of the United States and from friends and allies around the world. For the good of the human rights cause, and for the security of those at risk of terrorist strikes, reevaluation and reversal of Washington's shameful policies are essential.

This Report

This report is Human Rights Watch's sixteenth annual review of human rights practices around the globe. It summarizes key human rights issues in sixty-eight countries, drawing on events through November 2005.

Each country entry identifies significant human rights issues, examines the freedom of local human rights defenders to conduct their work, and surveys

the response of key international actors, such as the United Nations, European Union, Japan, the United States, and various regional and international organizations and institutions.

The volume begins with separate essays on the social responsibilities of corporations and effective HIV/AIDS prevention. The first essay argues that momentum is building for enforceable human rights standards for corporations and concludes that corporate executives would do well to begin engaging the debate now to ensure that the rules eventually adopted create a level playing field for all firms. The second essay details how abuses of marginalized populations are fueling the global HIV/AIDS pandemic and notes that in several countries moralistic approaches to prevention programs are replacing the science-based, human rights-informed responses that work best. It makes the case that, to succeed, prevention programs must be premised on basic respect for individuals and their rights.

This report reflects extensive investigative work undertaken in 2005 by the Human Rights Watch research staff, usually in close partnership with human rights activists in the country in question. It also reflects the work of our advocacy team, which monitors policy developments and strives to persuade governments and international institutions to curb abuses and promote human rights. Human Rights Watch publications, issued throughout the year, contain more detailed accounts of many of the issues addressed in the brief summaries collected in this volume. They can be found on the Human Rights Watch website, www.hrw.org.

As in past years, this report does not include a chapter on every country where Human Rights Watch works, nor does it discuss every issue of importance. The failure to include a particular country or issue often reflects no more than staffing limitations and should not be taken as commentary on the significance of the problem. There are many serious human rights violations that Human Rights Watch simply lacks the capacity to address.

The factors we considered in determining the focus of our work in 2005 (and hence the content of this volume) include the number of people affected and the severity of abuse, access to the country and the availability of information

about it, the susceptibility of abusive forces to influence, and the importance of addressing certain thematic concerns and of reinforcing the work of local rights organizations.

The World Report does not have separate chapters addressing our thematic work but instead incorporates such material directly into the country entries. Please consult the Human Rights Watch website for more detailed treatment of our work on children's rights, women's rights, arms and military issues, academic freedom, business and human rights, HIV/AIDS and human rights, international justice, refugees and displaced people, and lesbian, gay, bisexual, and transgender people's rights, and for information about our international film festival.

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