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Legislative Watch

Ryan Vogel

American University Washington College of Law

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LEGISLATIVE WATCH

The Human Rights Brief's Legislative Watch reports on key U.S. legislation relevant to human rights and humanitarian law. This list is not meant to be comprehensive.

H. R. 2745, HENRY J. HYDE UNITED NATIONS REFORM ACT OF 2005

Sponsor: Representative Henry J. Hyde (R-IL)

Status: Passed by the House of Representatives 221 – 184 on June 17, 2005. Currently on the Senate Legislative Calendar under General Orders.

Substance: Under the umbrella of United Nations reform, several sections of H.R. 2745 specifically address human rights. Most notably, in Section 201, the bill calls for the creation of a Human Rights Council to replace the current Human Rights Commission. A number of stipulations are included for membership in the proposed Council, including disqualification if a nation is under investigation for human rights abuses, is currently under Security Council-imposed sanctions, or has been the subject of a resolution related to human rights abuses in the past three years. Moreover, every member nation must adhere to the principles in the Universal Declaration of Human Rights.

In Section 113, H.R. 2745 addresses the issue of genocide. The bill directs the President to use U.S. influence to: (1) suspend the UN membership of a country engaged in or complicit in genocide, ethnic cleansing, or crimes against humanity; (2) impose an arms and trade embargo and travel restrictions on, and freeze the assets of, all responsible groups and individuals; (3) deploy a UN peacekeeping operation or authorize and support an international or regional peacekeeping operation to stop such acts; (4) deploy monitors from the United Nations High Commissioner for Refugees to areas where such acts are occurring; and (5) authorize the establishment of an international commission of inquiry into such acts. The bill does not contain any reference to enforcement or intervention into ongoing genocide campaigns.

S. AMDT. 1977 TO H. R. 2863, "MCCAIN AMENDMENT" TO THE DEFENSE DEPARTMENT FY 2006

APPROPRIATIONS BILL

Sponsor: Senator John McCain (R-AZ)

Status: Amendment passed 90 – 9 in the Senate. Defense Appropriations bill then passed as amended in both the House of Representatives (308 – 106) and the Senate (93 – 0) and was signed into Public Law by the President on December 30, 2005.

Substance: Senator McCain's amendment to the Defense Department Appropriations bill received significant attention in the press because it positioned Senator McCain against the Bush administration in a showdown over the issue of detainee treatment in the war on terror. The amendment began as a separate bill, but McCain subsequently added it to the Defense Appropriations bill as an amendment. The amendment contains two major provisions: (1) recognizing and formalizing uniform standards for the interrogation of persons under the detention of the Department of Defense, and (2) prohibiting cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the United States government.

The first provision of S. AMDT. 1977 proposes using the United States Army Field Manual on Intelligence Interrogation as the guide for the treatment of all detainees held by the Department of Defense. All detainees held within the physical jurisdiction of the United States shall be protected under the United States Constitution.

The second provision clarifies that regardless of the location of detention or nationality of the detainee, all individuals held by the government of the United States shall be protected from cruel, inhuman, or degrading treatment or punishment. The term "cruel, inhuman, or degrading treatment or punishment" is defined as the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States. The term is also defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment.

President George W. Bush initially opposed the amendment and threatened to veto the entire Defense Appropriations bill

unless a provision was added that excluded the Central Intelligence Agency from the limitations expressed in the amendment. The President offered his support for the bill, however, after it passed overwhelmingly in the Senate and the House of Representatives.

H. R. 972, TRAFFICKING VICTIMS PROTECTION REAUTHORIZATION ACT OF 2005

Sponsor: Representative Christopher Smith (R-NJ)

Status: Passed in the House of Representatives, 426 – 0, on December 14, 2005. The Senate then passed the bill by unanimous consent on December 22, 2005. On January 10, 2006, the President signed the bill into public law.

Substance: H. R. 972 amends the Trafficking Victims Protection Act of 2000 to direct the United States Agency for International Development (USAID), the Department of State, and the Department of Defense to incorporate anti-trafficking and protection measures for vulnerable populations, particularly women and children, into their post-conflict and humanitarian emergency assistance and program activities. It also amends the Violent Crime Control and Law Enforcement Act of 1994 to extend the sexually violent offender registration program to foreign offenses.

The bill treats the trafficking of persons as a modern form of slavery. Consequently, it amends the Uniform Code of Military Justice to establish crimes of sex trafficking and trafficking for labor or services, and directs the Federal Bureau of Investigation to investigate severe forms of trafficking in persons other than domestic trafficking in persons.

To prevent the expansion of trafficking in persons, the bill directs the Secretary of Labor, through the Bureau of International Labor Affairs of the Department of Labor, to monitor and combat forced labor and child labor in foreign countries. It also directs the Secretary of Health and Human Services (HHS) to develop a program to reduce demand for commercial sex acts and carry out a pilot program to establish U.S. residential treatment facilities for minors who are victims of domestic trafficking. *HRB*

Ryan Vogel, a J.D. candidate at the Washington College of Law, covers the Legislative Watch for the Human Rights Brief.