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LEGISLATIVE WATCH/LEGISLATIVE FOCUS

LEGISLATIVE WATCH

Legislative Watch reports on U.S. legislation relevant to human rights and humanitarian law. This list is not meant to be comprehensive.

H.R. 1813, TORTURE VICTIMS RELIEF REAUTHORIZATION ACT OF 2003

Sponsor: Rep. Chris Smith (R-NJ)

Status: Passed by the House Energy and Commerce Committee and the International Relations Committee. On December 15, 2003, H.R. 1813 was signed by the president and became Public Law No.108-179.

Substance: H.R. 1813 amends the Torture Victims Relief Act of 1998 to extend funding for the 2004 - 2006 fiscal years to cover the following activities: (1) grants by the Department of Health and Human Services to domestic service providers for the treatment of torture victims recovering from physical and psychological injuries; (2) grants by the president to treatment centers abroad with torture victims recovering from physical and psychological injuries; and (3) voluntary contributions to the United Nations Fund for Victims of Torture.

H.R. 1462, INTERNATIONAL DISABILITY AND VICTIMS OF WARFARE AND CIVIL STRIFE ASSISTANCE ACT OF 2003

Sponsor: Rep. Tom Lantos (D-CA)

Status: Passed by the House International Relations Committee by unanimous consent on June 12, 2003.

Substance: H.R. 1462 authorizes the funding of a wide variety of international programs addressing the needs of those "with disabilities, including victims of civil strife and warfare." The bill assists foreign governments' efforts to rehabilitate victims of warfare and civil strife by funding various training and educational programs. In addition, the bill authorizes research on new forms of treatment, emergency surgical procedures, and follow-up care for the treatment of the wounded and disabled during warfare or civil strife.

H.R. 194, REGARDING THE IMPORTANCE OF INTERNATIONAL EFFORTS TO ABOLISH SLAVERY AND OTHER HUMAN RIGHTS ABUSES IN THE SUDAN

Sponsor: Rep. Michael Capuano (D-MA)

Status: Passed by the House of Representatives on July 16, 2003, by voice vote (non-recorded vote).

Substance: In passing H.R. 194, the House took a strong stance on the issue of slavery in the Sudan. The resolution states the House's opposition to slavery in all its forms and to the human rights abuses accompanying it. It also states that the United States condemns these acts and urges the United Nations Commission on Human Rights (Commission) to do the same. The resolution calls on the U.S. administration to seek the appointment of a Special Rapporteur at the Commission's next meeting on October 20, 2003 to investigate allegations of human rights abuses in the Sudan, and also to urge the United Nations, the European Union Parliament, and the African Union to reinstate an economic embargo on Sudan.

H.R. 2853, THE COLOMBIAN TEMPORARY PROTECTED STATUS ACT OF 2003

Sponsor: Rep. Jim McGovern (D-MA)

Status: Referred to the House Committee on Judiciary, Subcommittee on Immigration, Border Security, and Claims on September 9, 2003. (This bill will likely see no movement in the 108th Congress).

Substance: H.R. 2853 includes two components: a non-binding resolution and a change to the Immigration and Nationality Act. The resolution states that, based on the 38 year-old civil war in Colombia and the continuing escalation of violence there, Colombian nationals in the United States should qualify for protected status. The second part of this bill designates Colombia as a nation in an ongoing armed conflict. Such designation enables Colombian nationals to obtain temporary protected status in the United States for a two-year period.

H.R. 1403, TO REMOVE PAKISTAN'S EXEMPTION FROM THE PROHIBITION ON ASSISTANCE TO A COUNTRY WHOSE ELECTED HEAD OF GOVERNMENT WAS DEPOSED BY DECREE OR MILITARY COUP

Sponsor: Rep. Frank Pallone (D-NJ)

Status: Referred to the House Committee on International Relations on March 20, 2003. (This bill will probably see no movement in the 108th Congress).

Substance: On October 27, 2001, President Bush signed S. 1465 into law, allowing the president to waive the restriction on foreign aid to countries whose head of state was deposed by decree or military coup. H.R. 1403 would repeal the provision in S. 1465 that applied the waiver to Pakistan. *HRB*

LEGISLATIVE FOCUS

THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

Since 1962, Burma has been ruled by a series of military regimes. In 1988, the ruling military regime created the State Law and Order Restoration Council (SLORC) to regulate the growing pro-democracy movement in the country. The SLORC announced that it would hold parliamentary elections in 1990. Elections were held on May 27 of that year. The SLORC-backed National Unity Party suffered a massive defeat as the opposition National League for Democracy (NLD) won 80% of the vote. The regime, however, refused to recognize defeat or hand over power. The SLORC, renamed the State Peace and Development Council (SPDC) in 1997, has been suppressing pro-democracy forces ever since.

Substance of the Legislation

H.R. 2330, entitled the Burmese Freedom and Democracy Act of 2003 (BFDA), was signed by President Bush and became effective law on July 28, 2003. The BFDA

explain within twenty days why it does not allow the passage of residents, vehicles, and mechanized equipment from four villages bordering the separation barrier through the designated gates at reasonable hours. The petition placed special emphasis on the lack of justification for the paralysis of the civilian population's daily lives. The barrier cuts them off from their agricultural land, social and family ties, commercial centers, sources of livelihood, educational institutions, public services, and critical access to medical care.

ACRI filed another petition jointly with *B'tselem* against the IDF judge advocate general demanding a military police investigation

into the death of every Palestinian civilian not involved in the fighting so far killed by IDF soldiers. The court ordered the military to provide sufficient data regarding the number of investigations regarding civilian deaths, and further required differentiation between deaths which occurred in the course of combat and those that occurred at checkpoints or in other circumstances. The petition details the circumstances surrounding the deaths of eight Palestinians who were killed by IDF soldiers between May 2002 and May 2003.

Between the beginning of the *Al Aqsa Intifada* (popular uprising) in October 2000 and October 15, 2003, 2,171 Palestinians have

been killed by the Israeli security forces, including 410 minors. Despite these figures, Israeli military police have opened only 70 investigations addressing shooting offenses, many involving non-fatal injuries. Only nine of these investigations led to indictments. *HRB*

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attempts to put pressure on the ruling Burmese regime by exerting financial pressure and by supporting democracy activists. The Act is effective for one year, but it can be renewed annually for two additional years by the passage of a joint "renewal resolution" in both houses of Congress.

Financial Pressure

Most significantly, H.R. 2330 imposes a trade embargo on Burma. The "findings" section of the bill states that the regime has integrated the Burmese military into most aspects of the economy. As a result, the embargo consists of a ban on imports from companies associated with the regime. These organizations include the Union Solidarity and Development Association (USDA), a civic group created by the SLORC in 1993; the SPDC and any ministry or member of that organization; and the military-controlled Myanmar Economic Corporation (MEC). In addition, H.R. 2330 extends the ban to known narcotics traffickers.

The BFDA specifies the requirements for lifting the embargo. The SPDC must make "substantial and measurable progress to end violations of internationally recognized human rights." It must release all political prisoners, allow freedom of speech and of the press, permit the free exercise of religion, allow freedom of assembly, and, most importantly, transfer power to the democratically-elected civilian government led by the

NLD. The secretary of state, in conjunction with the International Labor Organization and relevant non-governmental organizations, must certify that the Burmese regime has met these requirements before lifting the embargo.

Furthermore, the BFDA provides for the freezing of US assets belonging to the SPDC and senior officials within that organization. Finally, the BFDA directs the secretary of the treasury, who is responsible for the United States' interactions with the International Monetary Fund and the World Bank, to oppose and vote against any loan or financial or technical assistance to Burma.

Support for Democracy Activists

The BFDA authorizes the president to use "all available resources to assist Burmese democracy activists." To that end, Congress requires the secretary of state to recommend comprehensive short- and long-term programs to support these activists. Congress also requires the secretary of state to report on the resources necessary to reconstruct Burma after the SPDC is no longer in power. Specifically, the secretary of state is to report on funds necessary to form democratic institutions; establish the rule of law and freedom of the press; provide for the reintegration of the military into Burmese civil society; and assist in the country's health, education, and economic development. Finally, ninety days before the embargo is set to expire, the secretary of state is to report

back to Congress on the progress of human rights and democracy issues in Burma. In this report, the secretary of state is to include measures taken by the US and other governments to promote human rights and democracy, as well as the impact the embargo has had on improving conditions in Burma.

Conclusion

The findings in H.R. 2330 paint a grim picture of life in Burma. The bill cites the use of rape to intimidate women, the forcible conscription of child-soldiers, and the torture of prisoners. The intimidation of democracy activists indicates an apparent willingness by the Burmese regime to restrict the free flow of the political process. The BFDA makes concrete steps to pressure the Burmese regime to loosen this grip. By freezing assets in the US that belong to the regime and its leadership, opposing aid to Burma from international financial institutions, and banning imports from Burmese interests connected to the SPDC, Congress has taken one of the most dramatic steps to pressure the Burmese regime to take a democratic path. *HRB*

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