

VICTIMS OF TORTURE

HEARING
BEFORE THE
SUBCOMMITTEE ON
INTERNATIONAL OPERATIONS AND HUMAN RIGHTS
OF THE
COMMITTEE ON
INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES
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VICTIMS OF TORTURE

WEDNESDAY, MAY 8, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN
RIGHTS,
Washington, DC

The committee met, pursuant to call, at 2:40 p.m. in room 2172, Rayburn House Office Building, Washington, DC, Hon. Christopher H. Smith (chairman of the subcommittee) presiding.

Mr. SMITH. The subcommittee will come to order. Good afternoon. Today the subcommittee will hear testimony on the continued and widespread persistence of torture in the world today, and what steps the United States and other free and civilized nations can do about it.

Three of our witnesses are themselves victims of torture: a native of Uganda who suffered at the hands of Idi Amin; a Tibetan physician who was tortured by the Chinese Communists; and an American who became a torture victim in Saudi Arabia after he had a falling out with his employer, the Saudi Government.

You will also hear from witnesses who are experts on the serious difficulties often encountered by torture victims at the hands of the very institutions that are designed to help them, including refugee and asylum hospices as well as the State Department's process for espousing claims against foreign governments and similar structures.

Finally, we will hear testimony on the treatment of torture victims designed to bring about the remission and eventual cure of the severe physical and emotional and psychological consequences of torture.

As we begin this hearing, I should say that I am proud to be principal sponsor along with my good friend, the ranking member Tom Lantos, and 48 cosponsors of H.R. 1416, the Torture Victims Relief Act of 1995. The Act contains a number of important provisions designed to assist torture victims.

First, implementation of the provisions of the convention against torture that prohibits the involuntary return of any person to a country in which there are substantial grounds for believing that he or she would be in danger of being subjected to torture. Because the United States has ratified the convention, this provision is already binding on the United States as a matter of international law, but it has as yet not been incorporated into our domestic law, and the time has come to do so.

Second, expedited processing for asylum applicants who present credible claims of subjugation into torture, a presumption that such applicants shall not be detained during the pendency of their asylum claims, and a provision taking into account the effect of torture in the adjudication of such claims.

Third, specialized training for consular, immigration and asylum personnel on the identification of evidence of torture, techniques for interviewing torture victims and related subjects.

Fourth, a Center for Disease Control study with respect to torture victims currently in the United States and the recovery services available for such persons.

Fifth, authorization of grants for rehabilitation services for victims of torture and related purposes.

Sixth, authorization of voluntary contributions from the United States to the U.N. Voluntary Fund for Victims of Torture in the amount of \$1.5 million for 1996 and \$3 million for fiscal year 1997. The U.S. contribution to this fund in 1995 is \$1.5 million.

At the time the bill was introduced last year, the Administration had proposed to cut the fiscal year 1996 contribution by two-thirds to \$500,000. I am happy to say that after introduction of H.R. 1416 any inclusion of the \$1.5 million figure in H.R. 1561, the Foreign Relations Authorization Act, the Administration eventually contributed the full \$1.5 million in 1996. The Administration budget proposal for 1997 also includes a \$1.5 million contribution to the Voluntary Fund.

And finally, the bill contains an expression of the sense of Congress, that the United States shall use its voice and its vote in the United Nations to support the investigation and the elimination of practices prohibited by the Convention Against Torture.

Although the scope of this hearing is by no means limited to the provisions of H.R. 1416, I would welcome any comments the witnesses may have about the legislation. At this particular time, I would like to recognize my good friend and colleague, Mr. Lantos, for any opening comments he might have.

Mr. LANTOS. Thank you very much, Mr. Chairman. I welcome the holding of this hearing today and I am delighted to commend you for dealing with this issue. We have frequently dealt with the serious and tragic matter of the use of torture to violate individual human rights. We have dealt with a number of countries which violate human rights through torture.

Today our hearing takes a different focus. We are considering the consequences of torture, the effects of brutality against individuals and the serious and deep seated problems that result when ruthless and inhuman torture are used to enforce compliance or to deny human rights. We are also considering the programs that exist to help the victims who have suffered.

Mr. Chairman, you will be pleased to know that there is a large community of human rights activists in my congressional district in San Francisco who have long supported efforts to deal with the consequences suffered by victims of torture.

Survivors International in San Francisco is a non-profit treatment center which provides both psychological and medical care to the survivors of torture from around the globe. I commend them for

their commitment to human rights and to helping the victims who have suffered for seeking to exercise their human and civil rights.

Mr. Chairman, I note that I have had experience in the past with some of our excellent panel witnesses. Mr. James Smrkovski was one of the victims of human rights abuse by the officials of Saudi Arabian security forces. This case was one that was discussed and examined in detail by the Subcommittee on Europe and the Middle East a number of years ago when I had the pleasure of chairing that hearing.

I was appalled by the treatment he received when he was in Saudi Arabia. I am pleased that he will be here for this hearing today to tell this committee first hand of the abuse he suffered and the course of recovery that he has been forced to pursue.

Dr. Tenzin Choedrak, personal physician to His Holiness the Dalai Lama will also testify today. I know in some detail of the many tragic aspects of his imprisonment and torture by the Chinese Government. I am very grateful that he will testify.

I am pleased that we have a distinguished series of witnesses at this hearing who have dealt first-hand with the problems faced with victims of torture. I want to apologize that simultaneous conflicting duties will compel me to be away for part of this time, but I look forward to reading and studying their testimony. Thank you, Mr. Chairman.

Mr. SMITH. Thank you, very much, Mr. Lantos. The Chair would like to recognize Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Mr. Chairman, I certainly would like to associate myself with the comments made previously by my good friend from California and I certainly want to commend you for the outstanding leadership that you displayed for the subcommittee in bringing up these issues that are important as far as human rights are concerned. I certainly would like to personally welcome the members of our panel here this afternoon and look forward to listening to their testimony. Thank you.

Mr. SMITH. Thank you, very much. I would like to introduce our first three panelists and ask, because of time constraints and the second panel that awaits, if you could keep your comments to approximately 10 minutes. Your full statements will be made a part of the record.

James Smrkovski, as Mr. Lantos pointed out a moment ago, is a U.S. citizen who was tortured by officials of the government of Saudi Arabia. While working as a training specialist for Saudi Arabian Airlines in 1985, Mr. Smrkovski was arrested and tortured. He was subjected to electric shock, tortured, and was held in solitary confinement for more than 1 year.

Richard Oketch is a special education teacher in St. Paul, Minnesota. He is originally from Uganda and is a member of the Luo Tribe on the northern part of Uganda. Mr. Oketch was tortured in Uganda during the reign of Idi Amin. While imprisoned, his hands were shackled to his feet and he received little food. Mr. Oketch arrived in the United States in 1982.

And finally, Dr. Tenzin Choedrak is a personal physician to His Holiness the Dalai Lama. In 1959, Dr. Choedrak was arrested in the wake of the Tibetan people's uprising in Lhasa. After being held in Lhasa for some time, Dr. Choedrak was sent to prison in

China. Among the few Tibetans who survived the ordeal in China, he was sent back to Tibet in 1962 and left for India in October 1980. I welcome this distinguished panel of survivors who have endured so much. The subcommittee looks forward to your testimony. If you would begin.

STATEMENT OF JAMES EDWARD SMRKOVSKI, SURVIVOR OF TORTURE

Mr. SMRKOVSKI. My name is Jim Smrkovski. I now live in Minneapolis, Minnesota. However, I have spent most of my adult life traveling and working in foreign countries, mainly in Europe and the Middle East and Southeast Asia. In September 1976 after having spent several years in Europe and in Iran and 3 years in Saudi Arabia with Ararico, I was recruited by the kingdom of Saudi Arabia to work for Saudi Arabian Airlines.

For the next 9 years I taught English, developed teaching materials and managed various language programs for Saudi Arabian Airlines. Through my job I made friends with dozens of Saudis, many of them extremely critical of the ruling family. I listened intently to their criticisms, but was always very careful not to express my own views.

My life in Saudi Arabia was relatively uneventful until one late night in the summer of 1985 when I was suddenly taken from my home by men in plain Saudi clothing. For the next 454 days, I was held in various interrogation centers in Jeddah and Taif, the summer home of the royal family, spending a total of 10 months in solitary confinement in underground cells with not even a mattress to sleep on.

Most of this time I was at a military installation. For the first 26 days of my captivity, neither my family nor my government knew of my whereabouts or what had happened to me.

During this time I was repeatedly asked questions about my travels to Iran, Israel and other countries about certain acquaintances, about terrorist activities, espionage and arms smuggling in the kingdom. This was a few short years after the demonstrations by Shiite Muslims in the eastern province and also an uprising in Mecca at the Mosque.

Many stashes of arms, were discovered in the country in various places. And apparently they thought I knew something about these arms.

I was kept awake with noise, with lights and with dousings of hot and cold water. I was forced to do knee bends to the point of exhaustion. I was forced to stand with my hands cuffed high above my head for hours on end. And I was beaten on the feet with a bamboo rod. I was subjected to other forms of torment and torture which I find too painful to discuss here. You have, however, my written statement which goes into more detail.

Finally, 26 days after my arrest, one of the interrogators had me cleaned up, shaved and driven blindfolded to a court where I was told to confess to some minor alcohol violation. I had no choice but to accept because my chief interrogator was sitting across from me.

Later the same day I was allowed for the first time to meet with a U.S. counselor officer at a local jail. Later I was to find out that

the counselor officer thought I was at this jail. However, I had been taken from a military installation to this location.

During the long months that followed, I was repeatedly moved from one location to another. Each time I was told that I would soon be released.

And finally after 454 long days and nights I was put on an airplane and flown to Thailand where my wife and daughter did not recognize me for I had lost 40 pounds. My skin was pale and according to my wife I looked 10 years older.

Now, since my release, life for me and my whole family has been exceedingly difficult. My father was especially affected. He often sank into depression and passed away 2 years ago from pneumonia. My mother is no longer her former vibrant self. My wife, I feel, suffered emotionally more than I did not knowing what had happened to me and imagining the worst. She is continually depressed and irritable, but refuses medical help.

My son once attempted suicide. He will not admit it to me, but I believe that he blamed himself for what happened to me. You see, when I was arrested, the Saudi secret police found a photograph of my son wearing a medallion in the form of the Star of David and apparently thought that I was Jewish and an Israeli spy and what else I do not know.

For the first 5 years after my release, I often relived my experiences in the form of nightmares, flashbacks and mental and physical pain. I could not sit in one position for more than a few minutes without suffering from intense lower back pain and aching in my tail bone and knees. I was unable to concentrate, had very little energy, and was always irritable. To this day I have been unable to get full-time employment. I have tried teaching, but after an hour or two I get so exhausted that I have to stop and rest.

Until 5 years after my release, my symptoms of post-traumatic stress disorder were at times unbearable. Then I discovered the Center for Victims of Torture in Minneapolis, Minnesota.

At the Center, I underwent intensive psychological and physical evaluations. For the first 2 years I received help from doctors, nurses and social workers. Since then I have returned periodically for continued therapy.

As a result of the help I received at the center, I feel that my life has dramatically improved. However, my doctors tell me that I may never fully recover. I now have significantly fewer nightmares and flashbacks and my aches and pains have decreased in intensity and I am less irritable.

However, despite these improvements I find it difficult to continue my career in education because of the lack of energy and concentration and often when I am in a stressful situation my symptoms come back. The back pains, the knee aches and the shaking returns and I break down and cry like a baby sometimes.

For the time being I am managing and taking care of a small apartment building, a task far less demanding than teaching. Unfortunately, I have no insurance that covers my treatment and medication, but have been able to obtain services from the Center in Minneapolis free of charge. The cost of such treatment and medication would otherwise have been prohibitively expensive. People like myself find it very difficult, if not impossible, to obtain health

insurance that will cover treatment and medication for post-traumatic stress disorder.

I do not know what psychological and physical shape I would be in here today if it were not for the aid I received from the Center in Minneapolis. Through the Center, I have met numerous other torture victims who were unable to obtain insurance coverage for the aftereffects of torture.

In conclusion, I would like to emphasize the importance of making funds available to help the countless thousands of torture survivors like myself. I thank you for listening to my testimony.

[The prepared statement of Mr. Smrkovski appears in the appendix.]

Mr. SMITH. Thank you very much for your very moving testimony, and for describing to this subcommittee and the Congress and the many who will see this hearing record what it is like to go through not only horrendous torture, but also the unbelievable aftermath that affects not just you but your entire family in such a deleterious way. So thank you very much. After all of the witnesses we will get to some questions. Thank you. I would like to ask our next witness, Mr. Oketch, if he would present his testimony.

STATEMENT OF RICHARD OKETCH, SURVIVOR OF TORTURE

Mr. OKETCH. Thank you. My name is Richard Oketch. I am a survivor of torture. I am presently a special education teacher and a program specialist for the minority encouragement program in St. Paul, Minnesota. I am also a doctoral candidate in the area of education.

I am here to ask Congress to enact the Torture Victim's Relief Act of 1995. I was born in Uganda and became a torture victim during the military dictatorship of Idi Amin, between the years 1973 to 1977.

Prior to that, my family was involved in the civilian government. Subsequently my uncle who was a member of Parliament was shot soon after the coup for refusing to serve the military government.

It was at this time that my family became a target and was considered a threat to the military government. Through the name recognition, systematic elimination was begun. My father, two brothers, and several male cousins disappeared. My sister and her boyfriend were picked up from the University and have never been seen again.

As for me, I survived death but was not far from it. I was in prison three times, either being picked up at work or from my house. During my imprisonment, I was severely beaten, raped, bayoneted, forced to participate in mutilation of other prisoners, forced to consume large quantities of liquor for the enjoyment of the soldiers.

I suffered dislocated shoulders, cracked ribs, infected wounds and was often denied food and water. I was forced to load dead bodies on trucks and clean the bloody mess of the torture victims and the rooms.

Because some of the soldiers in the army were past schoolmates of mine, I was able to remain alive and to be here speaking to you. My physical wounds and bones healed leaving some visible scars

and invisible mental scars that remain. It is these mental scars the Center for Victims of Torture attempted to understand and heal.

For 15 years, I lived with the dimensions of torture derived from the original torture in the military prisons. It was mind against self. I suffered perpetual nightmares, flashbacks, anxiety attacks and many times injured myself in an attempt to flee during sleep. I never slept for more than 3 hours and for many occasions found myself lost in other cities other than Minneapolis.

I am here to tell you that it is only through the Center for Victims of Torture treatment centers that these problems can be reduced. Their multi-disciplinary approach and dedication have brought greater support and recognition from the communities around the area. And because of treatment at the Center, I am able to function and remain productive in society. It is a clear indication of the many successes of the program.

I would also add not all victims have the potential to achieve this freedom from mental anguish because the Center relies on voluntary donations and fundraising efforts that get things going and because of international restrictions faced by victims of torture along border controls and the fact that there are still no specific screening guidelines to identify torture victims; also because of lack of understanding about torture and torture victims as they struggle to make their case known.

I ask this committee to give this bill a chance to support treatment programs like the Minnesota Center for Victims of Torture and others like it in the United States. Thank you, very much.

[The prepared statement of Mr. Oketch appears in the appendix.]

Mr. SMITH. Thank you very much for your testimony. Again, we will get to questions momentarily. I appreciate it.

Doctor.

STATEMENT OF DR. TENZIN CHOEDRAK, PERSONAL PHYSICIAN TO HIS HOLINESS THE DALAI LAMA

Dr. CHOEDRAK. [Through interpreter.¹] Thank you, Mr. Chairman and members of the subcommittee for providing me the opportunity to testify before you today. My name is Tenzin Choedrak and I am a practitioner of traditional Tibetan medicine.

For 17 years of my life I had to undergo different forms of torture by China's forces in Tibet. Altogether, I was under 20 years of some sort of detention.

The fact that I have survived to tell this tale before this august body is not because the torture that was inflicted upon me was mild. Rather, my religious practice and my medical knowledge helped me to overcome my suffering. In addition, I was also able to survive by getting hold of anything I could eat during my detention.

It is nearly 20 years since I regained my freedom, but mentally I am not even free today, for the memory of my prison days are still fresh in my mind. Every day I am reminded of the many thousands of Tibetans who are inside Tibet who are undergoing suffering similar to what I have experienced.

¹ Buchung Tsering, International Campaign for Tibet, interpreter.

A number of human rights organizations including the International Campaign for Tibet have documented that torture continues to be routinely practiced against Tibet's political prisoners. Common techniques include regular beatings, the shackling of hands and feet, the use of thumblocks and the application of electric cattle prods to sensitive parts of the body, including the mouth and genitals. And when I am reminded of all these, my mind is never free or at ease.

The Chinese torture techniques are so subtle and so bad that sometimes they sort of encourage fights between Tibetans in order to inflict more torture on us.

Although I have been out of prison for many years now, my connection with torture victims continues in the course of my work at the Tibetan Medical and Astro Institute in Dharamsala. I have been treating many torture victims.

One case involved a 21-year-old nun from Lhasa, Tibet's capital, who escaped in 1989 after having been subjected to sticks being forced into her genitals while in incarceration.

Another 24-year-old nun, Soyang, who is my niece, required treatment for heart problems when she arrived in exile in 1993 because the Chinese had let dogs loose to attack her.

This year I treated a monk whose back was very swollen from a series of beatings he received while in prison in Tibet. I also treated Palden Gyatso, who testified before this subcommittee last year on the torture he received from Chinese guards in Tibet.

As for my own personal experiences, everything is contained in this statement that I presented before you. And this in fact is just a summary of what I have experienced.

The Chinese Government has not been following any international norms of human behavior in terms of showing respect to individuals. And therefore, I feel that countries including the United States should send a clear message to the Chinese Government that such acts will not be tolerated.

Just to show you that I still carry my physical scars from the torture that I have received, my left eye is permanently damaged and my mouth is shattered and I have even pellets on my left cheek.

And the Chinese Government did not allow me any treatment even after I was out of prison. I believe the Chinese use lip service to serve before the international community, but in reality they adopt a different measure.

Therefore, I would like to appeal from the bottom of my heart to please support truth and justice and to do whatever is for the truth and also if possible to review Tibet's history.

Thank you very much.

[The prepared statement of Dr. Choedrak appears in the appendix.]

Mr. SMITH. Dr. Choedrak, thank you for your testimony. Having read through some of the details that you chose not to describe before the subcommittee, the ordeal you have been through, like our two other witnesses, is just so far beyond the pale.

When you talk in here about being held in a dark room, 4 by 8 feet in dimension, and spending the next 4 months there, I mean, visions of being claustrophobic arise in my mind. We have heard

about this incredible cruelty from so many other witnesses in so many other countries, especially in China.

So thank you for again reminding us about the true nature of the dictatorship in China. I do have some questions I would like to ask. First, Mr. Smrkovski, when you met with the consular officer from the United States, and as you have testified you had a sense of reluctance to disclose the fact that you were indeed being tortured because your chief interrogator was right there in the room. Did the counselor in any way give a sense that he understood that that might be the case? That you had been cleaned up a little bit for that visit? Did he show any sense of understanding that, and did he find out afterwards, and what was the response then?

Mr. SMRKOVSKI. It is my impression that he did not realize the seriousness of the situation. I had been warned before I met with the counselor officer that I was not to discuss the case and not to discuss my treatment, just to tell him that everything was fine and, as I said, the chief interrogator was in the room with us and I had no desire to aggravate him because I was told that I would go back to interrogation again.

Also, earlier when they took me to court, the interrogator told me that if I did not cooperate and sign this confession that I would be taken back and interrogated again. I do not think the counselor officer realized the seriousness of the matter until several months later when I was able to smuggle a letter into his briefcase.

Mr. SMITH. Did he attempt to try to get you alone to try to speak with you with the interrogator not present? Was there any effort made by him to do that?

Mr. SMRKOVSKI. I do not know.

Mr. SMITH. Certainly not in your presence.

Mr. SMRKOVSKI. Not in my presence and I have not been able to get in contact—I tried to get in contact with him after my release and at one point he was, he agreed to speak to me and then he changed his name out of, I suppose out of, I do not know. Maybe out of fear of what—I just do not know. But he then declined.

Mr. SMITH. Do you know if your experience is unique, or if other Americans and other people are being tortured in Saudi Arabia?

Mr. SMRKOVSKI. I know of one other American, Scott Nelson, who was beaten and he is disabled. I met him a few years ago and have talked to him on several occasions. There was a British man from England who was severely tortured about a year or two before I was arrested.

I met one of the nurses who was in the hospital where he had been taken. And she said that he had suffered from internal injuries. They had put a garden hose in his rectum and turned the water on and had done serious damage.

Generally speaking, I do not know of very many cases where Westerners, where Europeans and Americans are tortured, but I met literally hundreds of Africans and Asians who had gone through even worse tortures than I did.

At one point, I remember when I was in this tiny cell, it was three feet wide and six feet long. I was kept there for 6 months. I could hear screams from other cells. I could hear beatings and screams.

One was a Saudi. I believe that the Saudis are treated the worst. There were two Filipinos who were brought in one night. I could see a small hole maybe six by eight inches, something like that. And I could see at a diagonal, two Filipinos being brought in one night about 2 o'clock in the morning. And for the next several nights and days I heard them screaming from being tortured.

Mr. SMITH. Just briefly, is there any contact with the other victims? I mean, did you have contact? Were they there because of their religious beliefs, because of conversion, because they said something the Saudi Government did not like?

Mr. SMRKOVSKI. I was never able to meet with any of the people that were at this military installation. Later on when I was moved several times, I spent about a month in a general prison population, in a room about 35 people in one room. When we slept, we had to take turns because there was not enough room to sleep on the floor. And there I met a number of people who were for the most part held because of smuggling.

One of the main things was a pill, something like speed, which kept people awake. Captiegon it was called. I think it was being smuggled in from England or Egypt. Most of these cases were that type of thing. But I did not meet anybody who had been tortured because of religious or political beliefs. It is my belief that people like that are kept separate from one another so that they cannot share information.

I had one Saudi student who was a Shiite Muslim from the Eastern province, a very, very nice young man. And he was very critical of the government and he disappeared and I have never heard from him and I know nothing about his whereabouts. But it is my understanding that his family does not know what happened to him.

Mr. SMITH. Let me ask of you and Mr. Oketch if you could answer, because both of you spoke about post-traumatic stress syndrome and, as you put it, the mental scars that remained in hibernation until the flashbacks and the nightmares.

You mentioned in your testimony that insurance often does not cover this. I know because I also serve on the Veterans Affairs Committee that we had a real difficult time getting in the 1980's our own VA to recognize post-traumatic stress syndrome both for treatment and for compensation of those who suffered in Vietnam and had terrible situations there.

If you could tell us why are the insurance companies telling you they do not cover this? And does the center also help your families? Because you mentioned that your wife and others had a real difficult time. Both of you may answer that.

Mr. OKETCH. I think with the insurance, the Center tends to help most of the clients. And for me I started getting help from my health insurance at work, but I could not tell them that I am getting it through the CVT because of post-traumatic syndrome. I only get the prescriptions and then I use my insurance to get the medications. But it has been very difficult for the Center to take care of your family as such. I think it has to be regarded in terms of I think very few cases are given that kind of assistance.

Mr. SMRKOVSKI. In my case, I have asked my wife several times to come with me to the Center, but she has been reluctant. She does not want to remember that she keeps it submerged.

As far as getting insurance, I was lucky that the Center was able to put me in contact with the community University Hospital Center. They have a health insurance program whereby you pay a certain amount each month. And I am able to get some help there. However, medication is not covered.

I took out a life insurance policy and was forced to refrain from mentioning any of this because I was afraid that the insurance would not be accepted. I believe that many people are afraid to divulge their symptoms because they are afraid that the insurance companies will not insure them.

Mr. SMITH. Mr. Oketch, how did you manage to escape and what was your experience with the immigration people, those who assisted you to help you find freedom?

Mr. OKETCH. I think my case was a little bit unique because I was a refugee in Kenya and I had a U.N. refugee status. So I could live in any one of the African countries and also in Europe. And I went to study in Europe.

So to escape I had to walk 130 miles from the point where I was driven out of the city. So I had to walk through the jungle and eventually entered Kenya where I was put in a refugee camp for over 6 months.

And the following year then I was lucky enough to get a scholarship through the United Nations. They had a refugee program. So I was sent to Europe. I stayed there from 1978 to 1981 when I came back again to Uganda after Idi Amin had been overthrown.

Mr. SMITH. Perhaps I missed it in your testimony, but was Idi Amin's regime trying to get information from you? What was the reason you were tortured?

Mr. OKETCH. I think my case was a little bit based on the background and family history. My family had always been involved in the previous government, in politics, in the local politics and things like that. So when my uncle refused to take up a government post in the Idi Amin regime we became a target, but there had been prior problems already with my family history.

So he killed about half a million people and 80 percent of those are from my area. Because in the past the British had recruited more soldiers from my ethnic group. So his policy was he wanted to get all the tribes that had been favored by the British. So my being arrested, my family, was based on the fact that my name was related to my uncle's and my father who were in government.

Mr. SMITH. Thank you. Dr. Choedrak, you testified that and have pointed out that the Chinese Government today seeks to join the mainstream of the international community while, at the same time, it continues to deny that torture and ill treatment of Chinese and Tibetan political prisoners is widespread and commonplace.

It is the view of this chairman and of human rights organizations with whom we have continuous contact and many others that the use of the Laogai and the use of torture continues. Just yesterday, we had a meeting with Harry Wu and watched a film that he has put together of these public executions and the fact that they have continued to be used as part of State policy to get people to do what the dictatorship wants them to do.

And yet, there are many in the Clinton administration, there are Republicans and Democrats—who turn a blind eye to this torture

and act as if it does not exist. I meet with CEO's and people doing business in China who tell me that there is no torture and that, if there is, it is an isolated case. Could you tell us based on your experience, does torture continue unabated in China?

Dr. CHOEDRAK. It is really clear that torture continues in Tibet and also in China. Every year we have many young children trying to escape from Tibet over the mountains through the snow. And some of them have toes or legs frostbitten. And if there is no torture, there is no cause for these people trying to escape from Tibet. And also in the demonstration in China some years back show that everything is not normal inside China too. So if there is a review of the situation in Tibet, it clearly showed that situation is bad even today.

Mr. SMITH. Dr. Choedrak, what would be your recommendation to Congress on the current policy of constructive engagement which is being followed by the Clinton administration or sanctions like removal of MFN or substantial conditioning of MFN or targeting of MFN in some way to military-owned businesses?

Dr. CHOEDRAK. I think the U.S. Government should send a clear message to the Chinese Government. Otherwise, I understand the Chinese people also have their human rights. But the fact is that in China today actions taken by the United States only lead to increased militarization or trade benefits for a few of the leadership there. It does not benefit the general people. So I think the United States should be sending a clear message to the Chinese Government.

Mr. SMITH. Thank you, very much. One final question, Mr. Smrkovski. We all know that many Americans go to Saudi Arabia to do business there. In general, can Americans in Saudi Arabia count on the rule of law to resolve their disputes and difficulties with the government and related entities?

Mr. SMRKOVSKI. In my opinion, it is impossible for any non-Muslim in Saudi Arabia to seek justice in a Saudi court. If you are not Muslim and especially if you are not Saudi Muslim, your testimony is not valued or accepted as truthful.

I have been told by the State Department that I can go back to Saudi Arabia and seek redress, but I would never go back there as long as the present government is in power.

Mr. SMITH. You would be required to physically go back. You could not do it in absentia?

Mr. SMRKOVSKI. I am not sure. It is possible that someone could take my place, but I just do not believe that anyone would get to first base in Saudi Arabia.

Mr. SMITH. It might be helpful in bringing focus on the status of whether or not they are really going forward as they claim, which the evidence suggests they probably are not, or whether it is business as usual.

Mr. SMRKOVSKI. I know of no substantial change in Saudi Arabia. The royal family talks about more representation by nonmembers of the royal family, but I have never heard any Saudi tell me that there is any substance to this. It seems to be all talk and no action.

Mr. SMITH. One final question, Mr. Oketch. Just tell me how you found out about the center in Minnesota.

Mr. OKETCH. It was kind of incidental. I was beginning to get involved with the partners in human rights education. And I met one of the members. And in the conversation she found out that I probably have a problem because in those days I was very intense. Any questions about Idi Amin broke me down immediately. So that is when she went and explained the situation to the Center. Then I was called and they interviewed me in their process.

Mr. SMRKOVSKI. I would like to add one point. When I was living in Jeddah, Saudi Arabia, I used to drive by Idi Amin's residence on a daily basis. The Saudi Government has given Idi Amin refuge at the Sands Hotel. He lives like a king there with complete immunity. And it is painful to sit next to somebody who has been tortured at the hands of this man when I know that I went by his residence every day for 4 years.

Mr. SMITH. I thank you for his testimony and all three of you. I would like to yield to Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. I certainly join you in expressing serious concern about the very unpleasant experiences that the members of the panel have gone through in their lives. Certainly this member does not in any way accept what these victims of torture have gone through.

At the same time, Mr. Chairman, the victims before us are survivors of countries that are basically totalitarian. I have been to Saudi Arabia. I remember that wherever you are, whether in the country or in a city, when that bell rings, all stores close and you have to face to mecca and everybody has to pray. Whether you are an American or not, you are affected.

Religious freedom in that country is unheard of. Basic Muslim law dictates that you pray five times a day, and they do that. And it raises a very interesting point, Mr. Chairman, that there is no excuse whatsoever that members of the panel have been victims of torture under any circumstances.

Which raises a point that I have expressed previously, Mr. Chairman, that while Saudi Arabia is a sovereign country, it is not a democratic country like our country. I do not know how long it will continue being under the Saudi family as a complete monarchy, which controls every aspect of Saudi Arabian life.

Mr. Smrkovski, I notice, taught there for 9 years before this incident happened to him. I would like to ask Mr. Smrkovski if I misunderstood the statement that you were at the time wearing a medallion that symbolized the Israeli flag? I did not catch that.

Mr. SMRKOVSKI. No, I was carrying a picture of my son in my billfold. There was a picture of my son wearing a medallion around his neck. The medallion had the Star of David on it.

Mr. FALEOMAVAEGA. And that was at the time that you were apprehended by the officials of the Saudi Arabia Government.

Mr. SMRKOVSKI. Correct. They found this picture and thought that maybe I was Jewish, Israeli.

Mr. FALEOMAVAEGA. Obviously they thought you were an Israeli informant or an intelligence agent under the auspices of the American Government. I guess you also know that you cannot go to Saudi Arabia if you had just come previously from Israel. There is a current conspiracy among Arabic countries not to do any trade or anything with Israel. If governments want to do business with

Arabic countries and they are dealing with Israel, they receive no business.

My point regarding Saudi Arabia is reinforced with Idi Amin's pressure. I do not have to say any more. The dictatorship and the cruelty that this man brought to the people of Uganda was amply noted in Mr. Oketch's testimony.

With Tibet, we have a classic debate as to whether Tibet is Chinese territory or whether Tibet is independent and sovereign. If I talk to our friends from the People's Republic of China—and I say friends because we do have diplomatic relations with the People's Republic of China—according to their historical accounts, the people of Tibet are Chinese.

The only difference here is that over the centuries things have changed and eventually Tibet supposedly became separated. The fact of the matter is that countries in Asia have experienced colonialism in its worst form from so-called democratic western countries. They called it the British Empire in those days, and look at what the French did in Indochina.

So we have this mixture of experiences. Sometimes I have some honest disagreement with my colleagues here who question why some of Asia's leaders ended up Marxists and Leninists? The reason why is because the worst examples of democracy were presented by colonialist powers.

As we go through history, we see this. But absolutely, Mr. Chairman, I could not agree with you more. We need to do something about the victims of torture. Classic examples have been exemplified by the presence of these distinguished gentlemen before us. I tip my hat to you. What you have gone through no one should have to go through again. Perhaps, Mr. Chairman, we can find some way through national legislation to offer assistance to such victims.

Now, there are basically two categories of torture that I see, Mr. Chairman, and members of the panel may agree or disagree: institutional torture and personal individual torture, that is conducted on a one-to-one basis.

Institutional torture can be addressed when we have a government-to-government relationship with nations that are offenders. Widespread use of torture and child labor rights violations in countries that profess to be democratic should be resolved on this level. Our partners across the Atlantic and in Asia should not be allowed to do that which is totally unacceptable as far as our country is concerned.

I want to commend the members of the panel for their comments on the most gruesome experiences that I could ever imagine. I cringe at what Mr. Smrkovski went through with nails put under his toes.

I know you want to respond to my observation about what you went through, Mr. Smrkovski. As you know, the relations between Saudi Arabia and Israel are very, very difficult. Islam is the most conservative in restricting religious freedom that I have ever heard of. So I want you to comment.

Mr. SMRKOVSKI. When you mentioned going to Israel, it reminded me. I took my parents to Israel for a visit while I was working in Saudi Arabia and I asked the immigration officer not to stamp my passport. But before I got the words out, he had al-

ready stamped it. So I had to fly back to the United States, get a new passport, new entry visa into Saudi Arabia. It took me weeks and weeks to get back to Saudi Arabia because the Israeli officer had inadvertently stamped my passport.

Mr. FALEOMAVAEGA. Mr. Chairman, I think our hearing this afternoon reinforces the fact that human torture is absolutely unacceptable under any circumstances. I sincerely hope that in the process of the coming weeks and months, we can develop proper legislation to give assistance. Our witnesses this afternoon have given statements of how torture rehabilitation centers have been a great help to Mr. Smrkovski and Mr. Oketch: I think that in this area there is something realistically that we could be of help. It is very, very difficult when we get into the institutional aspects where there is so much inconsistency throughout the world as far as human rights violations are concerned. Mr. Chairman, I admire and have the utmost respect for you as the champion of human rights on this committee. And I certainly take my hat off to you for your efforts. I thank the gentlemen for their testimony this afternoon.

Mr. SMITH. Thank you very much for your fine words. And I think you are absolutely right. We need to move on legislation. These three witnesses have been remarkable in their ability to survive and to overcome. We are very much indebted to you. So thank you for coming in.

Mr. FALEOMAVAEGA. Would the chairman yield?

Mr. SMITH. I would be happy to yield.

Mr. FALEOMAVAEGA. I really appreciate your draft bill and I would request the gentleman to put me on as a sponsor of H.R. 1416.

Mr. SMITH. I thank you very much. I would like to ask our next panel if they could make their way to the witness table and to thank our first panel again for their very fine testimony today.

Mr. SMRKOVSKI. Thank you.

Mr. OKETCH. Thank you, very much.

Mr. SMITH. I would like to introduce the five panelists for the second part of this hearing. First, Dr. Inge Genefke is the founder and medical director of both the Rehabilitation and Research Centre for Torture Victims and International Rehabilitation Council for Torture Victims. She is a citizen of Denmark and studied medicine at the University of Copenhagen. She serves as chairperson of the ad hoc section of survivors of torture and persecution in psychiatry.

Mary Diaz is the director of the Women's Commission for Refugee Women and Children, a non-profit and advocacy and education organization devoted to improving conditions for refugee communities around the world. Prior to joining the Women's Commission, Ms. Diaz served as director of refugee and immigration services for the Catholic Charitable Bureau of Boston where she developed and managed an emergency shelter for unaccompanied Haitian refugee children.

During this time she also served as president of the Massachusetts Immigrant and Refugee Advocacy Coalition.

Robert Jobe is a San Francisco-based attorney. He holds a B.A. from the University of Michigan and a J.D. from the University of Michigan law school. Mr. Jobe is founder and manager of a small

firm that specializes in immigration law with a particular emphasis on asylum and refugee law. He has represented nearly 1,000 asylum applicants from India, Sri Lanka, China, Afghanistan, El Salvador, Guatemala and other countries.

Daniel Wolf, who has been before our subcommittee before, is an attorney in the Washington, DC office of Hughes, Hubbard & Reed. There he has devoted approximately 40 percent of his time to pro bono human rights and refugee work. Many of Mr. Wolf's clients are victims of torture, including James E. Smrkovski, from whom we just heard, and Scott J. Nelson, two American citizens who were tortured by officials of the Saudi Arabian Government. Apart from his representation of American torture victims, Mr. Wolf has represented torture victims from several countries, including Bosnia, Iran, India and Vietnam in respect to their efforts to obtain asylum in the United States.

Finally, Douglas Johnson is the executive director of the Center for Victims of Torture, a non-profit organization which was founded to provide direct care to survivors of politically motivated torture and their families. In addition, Mr. Johnson serves as associate fellow to the Institute for Policy Studies here in Washington.

Dr. Genefke.

STATEMENT OF INGE GENEKKE, MEDICAL DIRECTOR, REHABILITATION AND RESEARCH CENTRE FOR TORTURE VICTIMS, AND INTERNATIONAL REHABILITATION COUNCIL FOR TORTURE VICTIMS

Dr. GENEKKE. Thank you. We started the professional medical psychological work against torture more than 20 years ago and we have observed and proved the tragic physical and psychological aftereffects of torture on the health of the torture victims.

More than 20 years of professional medical and psychological work has given us an in-depth knowledge about torture methods, the effects of torture, short- and long-term, how to diagnose victims of torture and very important how to rehabilitate the victims.

We have made research and documentation. We know the aim of torture. We know the target group. We have now sufficient basic knowledge, enough in-depth knowledge. So we know now, we can prove now, we have shown and can conclude that torture is a power instrument, a power instrument used against democracy. In fact, the most important power instrument against democracy.

We know that the aim of torture is to break down the personality of strong persons; strong persons who are working for better conditions in their own countries like union members, politicians, journalists, student leaders, leaders of minorities.

We know that in more than 90 countries in the world, this torture is what we call government-sanctioned. Torture is performed with a knowledge and a responsibility of course accepted by the governments, approved by the governments, mediated by the government, and often institutionalized by the government.

We have proved this. We proved that this power instrument torture is playing with physical and psychological health of the victims in trying to destroy their personality.

We can see the torture methods are the same all over the world. Cultural differences, yes. I have lots of slides I can show and prove

the same methods of torture used in Asia, in Africa or in Europe or in Latin America. Appalling and very tragic to see exactly the same methods used because we know the torturers are so skilled. They are skilled people. They are trained people.

And it is used because dictatorships want to stay in power. This is a pattern. This is the structure which is used around the world. We have to understand that that is what is used and that is our world which has the same way of torturing all over and the same people are tortured.

And I want to underline that this knowledge is based on neutral medical, psychological knowledge. We are unpolitical. This is professional analysis and I think that is our strength. That is why politicians listen to us all over.

It is fact. We have proved it. And these facts are not new. They are not new for people in power. The new thing is that we who want to help the victims, that we know these long-lasting effects. We know what they are doing now. We did not know it a few years ago, but this is a new aspect and we should use this aspect. We are now as clever as the torturers. They cannot fool us any more. We have broken down the silence, the myth of silence, which cannot be broken by victims because they have been so humiliated.

So what can be done? And here the United States, of course, as the only super power now in the world, you have a very big responsibility. You have the power. You have the means. You have the knowledge now. We have made clear the structure which goes all over the world. Now we have to stop this power instrument used by dictatorship in these 90 or more countries against democracy.

I think what is extremely important is that people do not like to hear about torture. There is a denial about the fact. We have to take it out in the open. We have to act. Lack of action has also an effect. Most important of all is funding. Funding the U.N. Voluntary Fund which you have also mentioned in H.R. 1416, we are very much welcoming.

It is only a shameful \$3 million now. Shameful \$3 million. The United States is giving \$1.5 million. May I say that in our small country each person is giving one dollar, each of them. If only you would give half a dollar or one quarter here, we could get rid of government-sanctioned torture.

It is not so expensive. We have made estimates. We know the need for how to do the work around in the world. As I said, we are working in more than 100 countries now. Money is very important not only for the U.N. Voluntary Fund, also for the many brilliant centers you have here in your country, in Minnesota, Chicago, New York or San Francisco and around your country. There are many brilliant people working and they need money very badly.

I visited them. They are very hungry. They cannot do the work. They have their hands full and they do not have the moneys necessary. That is what I am seeing.

Another thing which is extremely important for the only super power in the world is pressure. And I want here to mention one special country. I hope I can come back. I need more time for it. And that is Turkey. In 2 days there will be a trial in Adana which is a town near the Kurdish part of Turkey. There are at this time four centers in Turkey which are helping with physical and psycho-

logical torture. We were behind that. They started together with the Minnesota center about 9 years ago, there are centers in Ankara, Izmir, Istanbul and Adana. They will stop this work from the Turkish Government. In this trial they will try a doctor and they will try a lawyer. And they demand they shall give the names of the torture victims they have been treating. This is a great attack on the oath of silence for any doctor. So it will ruin all doctors' work. And that is why we from our organization are attacking now for the first time in our life a particular government because we are not normally mixing in politics. But there they are attacking the oath of silence for the doctors and we cannot accept that. And the doctors now risk jail. We all know how much torture there is in Turkey. We also know that there is now a strengthening and that they want to stop this work in the four centers. We know that the Minister of Justice, Mr. Mehmet Agar, was the police chief in Ankara, then the police chief in Istanbul, then the chief of the whole police in Turkey. That would say he was the *super* torturer in Turkey. Because we also know that most of the *torture* in Turkey is performed in the police station. Now he is Minister of Justice and we are very much afraid for the fairly clean prisons that torture will go in there.

This is horrible that you have a torturer as Minister of Justice. And you can make pressure because you *can* make pressure and also not give money and that would be the most effective thing you can do here to save this work, this very important work for our courageous colleagues there.

And, of course, the doctors are not going to mention the torture victims they are helping. The government says that torture is a crime in Turkey and therefore they should come up with this crime. But it is the authorities who make the torture. And the torture victims while they are tortured in the police station are told that if they say something about the torture, then the police will come after them again, and after all their families.

So, of course, they are scared. They will not tell about it. And also, not everybody will talk about torture; it is so humiliating. So it is extremely important that now all good strength goes against this. The other thing you can do here from your country is this pressure, of course, to other places but also the implementation of conventions as you also mentioned in your bill.

I think that creating awareness, going out of silence as you are doing now also here is a very good sign to talk about it and to explain to people really the horror and the power instrument torture is.

[The prepared statement of Dr. Genefke appears in the appendix.]

Mr. SMITH. Thank you very much, doctor. And Ms. Diaz, if you could proceed.

STATEMENT OF MARY DIAZ, DIRECTOR, WOMEN'S COMMISSION FOR REFUGEE WOMEN AND CHILDREN

Ms. DIAZ. Thank you. My name is Mary Diaz. I am the director of the Women's Commission for Refugee Women and Children and I would like to thank you, Mr. Chairman, for this opportunity to discuss with you the devastating effects of torture on women vic-

tims, but in particular the treatment they subsequently receive when they seek refugee status in the United States. I will summarize my testimony and would request that my written testimony be entered in the record.

The Women's Commission was founded in 1989 under the auspices of the International Rescue Committee. We serve as an expert resource on issues affecting uprooted women and children and have sent more than 30 delegations around the world. Our most recent delegation returned from the former Yugoslavia a few weeks ago. We have also initiated a project here in the United States to evaluate the situation of women and children asylum seekers held in detention by the Immigration and Naturalization Service.

I would like to focus my remarks today on the ways the United States, which has consistently been a leader in protection of refugees, can better address the needs of women who have suffered torture and other human rights abuses. There are problems in the asylum and refugee protection systems that need to be addressed in order to ensure that deserving individuals are provided refuge. To illustrate, I would like to discuss the experiences of two refugee women.

In September, 1995, the Women's Commission visited the York County Jail in Pennsylvania which is used by the INS for immigration detainees. One of the women we met was Hawa Abdi Jama. She fled Somali because she and her family had become targets in their country's brutal civil war. She and her mother had found their house ransacked and the bloody bodies of her father and two brothers who had been shot and killed.

Terrified, she and her mother started to run. On the way they were separated and Hawa was captured by soldiers who pushed her into a car, hit her with the butt of a gun and slashed her with a bayonet. She was taken to an old military camp where she was detained for 15 days. While she was there, she was continuously tortured. She was beaten around the head and dragged across the floor. After more than 2 weeks she was able to escape. During this time period, her sister was able to escape and gained refugee status and was able to enter the United States and relocate to Atlanta, Georgia.

But Hawa, arriving later at Kennedy Airport, in New York, in August 1994, asked for political asylum, but was thrown into the Esmor Detention Center in New Jersey. She spent 10 months in that facility until rioting broke out among inmates protesting inhumane treatment.

She reported that while at Esmor she was beaten by a guard and not permitted outdoors for months at a time. Esmor was closed and Hawa was transferred to the York County Prison in Pennsylvania where we met her. She was incarcerated there for another 5 months and held with criminal inmates even though she had committed no crime. Despite being clinically diagnosed for depression, the INS kept Hawa in detention for a total of 15 months until her attorney finally persuaded the INS district director to release her on medical parole.

Despite the credibility of Hawa's testimony and the fact that her sister had already been accepted for refugee status in the United States, Hawa's application for political asylum was denied by an

immigration judge in March 1995. Her appeal is currently pending before the Board of Immigration Appeals.

We congratulate you, Mr. Chairman, for recognizing in H.R. 1416 the need to pay special attention to the protection of torture victims seeking asylum in the United States and to promptly consider their asylum claims. The bill notes that torture survivors deserve protection from further repression.

Furthermore, H.R. 1416 says that when an individual who has suffered torture arrives at a U.S. port of entry, he or she should have a strong presumptive basis for a grant of parole in lieu of detention. The INS itself has recognized this. In 1992, it implemented a nationwide release policy for asylum seekers. This program, known as the asylum prescreening officer program or APSO, allows for the release of asylum seekers from detention.

Unfortunately, the Women's Commission has found that the APSO program is inconsistently implemented, resulting in the detention of women like Hawa who clearly have strong claims to asylum. Often APSO hearings do not take place at all. And even if they do, an individual's release remains purely discretionary on the part of INS district directors. It is our understanding the APSO program will be included as regulation soon. We hope that happens. We hope it becomes implemented. That combined with the gender guidelines adopted by INS last year, we hope will lead to more sensitive treatment of female asylum seekers.

Another cause for concern for victims of torture and persecution is that legislative initiatives now moving rapidly in Congress would jeopardize the intent of H.R. 1416. The summary exclusion system contained in the anti-terrorism bill and H.R. 2202, the House version of immigration reform legislation would fail the most traumatized and vulnerable.

Women who have suffered rape and torture would have difficulty presenting their cases at U.S. ports of entry. Women are often reluctant to talk to male interviewers about their experiences of torture and persecution.

I would like to now just turn very briefly to the U.S. resettlement program and to also thank you for your leadership on eliminating the cap on refugee admissions in H.R. 2202.

A young woman from Mostar in Bosnia, Sophie, not her real name, was pregnant when she was arrested and taken to a concentration camp and beaten. She was eventually released and returned home, but there she was hit by a shell during the shelling of Mostar and she and her baby were medivaced to Spain for surgery. Her status in Spain is only temporary and she has no work permit. Her case was referred to UNHCR and the U.S. resettlement program, but was denied.

The U.S. resettlement program is not considering cases of refugees from former Yugoslavia who are in exile in western European countries even though there are women and girls who have been imprisoned, tortured and raped and can never return to their homes in Bosnia and the region. Women are especially vulnerable when uprooted because they may be alone and responsible for children and elderly parents. If forced to return home they may suffer further trauma. Some governments including the United States,

Canada and New Zealand have adopted Women-at-Risk programs to resettle those refugee women in critical need.

However, again, the Women-at-Risk program is not being properly implemented. Women like Sophie meet the criteria of the program, but because UNHCR and the State Department staff do not know about or understand the program, they turn down cases like Sophie's which deserve attention. We need to do more training and outreach so that overseas processing posts understand there are opportunities for women who have been brutalized in the former Yugoslavia and in countries like that.

In conclusion, Mr. Chairman, we applaud your sponsorship of H.R. 1416 and agree that the United States has a moral responsibility to show leadership in the protection of asylum seekers and refugees who have suffered the effects of torture. We urge the committee to continue to use its oversight of U.S. refugee programs to ensure that the special needs of refugee women are met. And on behalf of the Women's Commission, I would like to thank you for considering my testimony and would be happy to take questions at the end of the panel discussion.

[The prepared statement of Ms. Diaz appears in the appendix.]

Mr. SMITH. Thank you, Ms. Diaz, for your excellent testimony. Regrettably, we have a vote going on right now on the floor. We are going to have to suspend this proceeding for about 15 minutes and then we will continue.

So we are in recess for about 15 minutes.

[Recess.]

Mr. SMITH. Mr. Jobe, if you could proceed. The hearing is back in order.

STATEMENT OF ROBERT B. JOBE, ATTORNEY AT LAW

Mr. JOBE. Mr. Chairman, thank you for inviting me to speak with the subcommittee regarding the treatment of torture victims in immigration process. In recent years there has been a shocking but unmistakable trend in our asylum jurisprudence.

Increasingly, the Board of Immigration Appeals and individual immigration judges are denying asylum to individuals who have suffered arrest and brutal torture at the hands of their government's security forces.

While many of these rulings have been reversed in the Ninth Circuit, they remain law in virtually every other jurisdiction and represent a shameful chapter in our otherwise laudable history of refugee protection.

Although the published cases involve Indian and Sri Lankan nationals, the legal principal set forth in those cases—that victims of official State torture are not necessarily deserving of protection—has been applied to torture survivors from many nations.

One of the most cited cases is *Matter of R*, a 1992 decision from the board of immigration appeals, that concerned a young Sikh man who had provided food and shelter to armed militants fighting to establish an independent Sikh state. The Indian security forces arrested him as a suspected militant and subjected him to what the Board characterized as "brutal physical abuse".

In a disgraceful decision, the Board rejected his asylum claim on the grounds that there was "no persuasive evidence" that this tor-

ture had been motivated by his perceived political opinion. According to the Board, his torture was simply "a reaction against those thought, rightly or wrongly, to be militants seeking the violent overthrow of the government". At another point, the board suggested that the purpose of the torture was to extract information about Sikh militants rather than to harm him for his political opinion.

Since it issued its decision in *Matter of R*, the Board has blindly and tenaciously adhered to it. In fact, in many cases, the board has refused to find a political motive for an asylum applicant's torture where there was any other alternative explanation. In the process, it has denied asylum to hundreds of torture victims including those who were brutalized for the peaceful expression of a political opinion.

One such applicant, Hardev Singh, a man that I represented with Mr. Wolf to my right, was arrested and brutally tortured on four separate occasions. First, he was arrested for organizing a peaceful march to view the damage inflicted by the Indian Army on a Sikh temple; then for carrying posters and a black arm band in a demonstration. His third arrest, in June 1989, was for organizing a conference on the killing of Sikh activists. And his final detention came one evening in 1990 after he had put up a series of posters calling for a strike and demanding that the Indian Government account for those who had disappeared while in detention.

During those detentions, he was brutally beaten, subjected to electric shock torture and had hot molten wax poured on his feet. Despite the quintessentially political nature of his activities and the torture that he suffered, Mr. Singh was denied asylum by both the immigration judge and the BIA. Both ruled that he had failed to establish with the requisite clarity that he had been targeted because of his political opinion rather than as part of an effort to stamp out militancy.

In another particularly disturbing decision, another case of mine, the Board rejected the claim of a Nigerian man who had been arrested and subjected to electric shock torture for delivering a speech at a mass demonstration against the military government. The Board held that he did not qualify for asylum because the demonstration had gotten out of hand, property had been destroyed, and his arrest and torture therefore could not have been politically motivated.

And yet another case, *Matter of T*, a 1992 decision from the Board of Immigration Appeals, the Board rejected the asylum claim of a Sri Lanka Tamil who was suspected of supporting the LTTE separatist movement.

Before fleeing Sri Lanka, the applicant in that case had occasionally provided food and cigarettes to members of the LTTE who had visited his grocery store and demanded that he provide them with supplies. He was arrested by the Indian Peace-Keeping Forces, detained for 2 weeks, and accused of assisting the LTTE.

During the course of this detention, he was severely beaten, suffering a broken nose and lacerations to his body. When the opportunity arose, he fled to another region of Sri Lanka and then came to the United States. In rejecting his asylum claim, the Board held that the detention and beating could not constitute political perse-

cution because the responsible parties were generally sympathetic to Tamil political demands, although they opposed the LTTE's violent separatist campaign.

It ruled that his brutal mistreatment was the result of his suspected support of the LTTE and therefore simply "an act of revenge which is in the nature of a civil war and does not amount to persecution".

These decisions compel the conclusion that there is something seriously wrong with our system of refugee protection. The Congress should protect torture victims from the ill effects of these decisions by taking the following steps.

First, the Congress must guard against efforts to limit judicial review of administrative denials of asylum. Absent such review, none of the torture victims I mentioned today would have obtained protection from their persecutors.

Second, the Congress must repeal the summary exclusion provision that recently became law as part of the Antiterrorism and Effective Death Penalty act of 1996. Under that provision, a refugee who arrives without proper documents will be summarily excluded if he fails to establish a "significant possibility" that he qualifies for asylum.

Although intended to exclude persons who have no reason to be afraid, the provision will undoubtedly be applied to torture victims who are unable, under the case law I have described, to establish that their suffering was politically motivated. Only by allowing those individuals a hearing before an immigration judge, and eventual access to a Federal court that has the power to reverse the Board's precedent, can we ensure that justice will be done for them.

Finally, I would urge the Congress to adopt H.R. 1416 which would prohibit deportation of an alien to a State where there are substantial grounds for believing that he would be in danger of being subjected to torture. The effect of that implementing legislation would be to overrule the line of cases I have described.

It is unacceptable that our country is returning individuals to countries where they are going to be brutally tortured on the basis of hair splitting distinctions. The Congress should take immediate action to ensure that this practice is stopped.

[The prepared statement of Mr. Jobe appears in the appendix.]

Mr. SMITH. Thank you, very much, Mr. Jobe, for your excellent testimony.

Mr. Wolf.

STATEMENT OF DANIEL WOLF, ATTORNEY, HUGHES, HUBBARD & REED LLP

Mr. WOLF. Mr. Chairman, thank you. My views concerning how our government can best assist victims of torture have been shaped both by my experience as a State Department attorney and by my representation of torture victims while in private practice. As the chairman has noted, I have been representing for the last 5 years Mr. Smrkovski who has already testified here today and also Scott Nelson.

Their stories graphically illustrate the unwillingness of our State Department to protect the rights of American citizens even when those citizens become victims of the most brutal crimes against hu-

manity. Mr. Smrkovski has already provided the gruesome details of the torture that was inflicted upon him in Saudi Arabia. What was too painful for him to describe was the fact that after his tormenters discovered a picture of his son wearing a Star of David, they became convinced that he was an Israeli spy and extracted six of his toenails with a pair of pliers.

Like Mr. Smrkovski, Scott Nelson was arrested and detained without charge in 1984 after having blown the whistle on a health and safety hazard at the King Faisal Hospital in Riyadh where he was employed as a monitoring systems engineer. During the 39 days in which he was detained in a cell infested with rats and swarms of insects, Saudi officials whipped the soles of his feet with a bamboo cane and beat him so severely that he lost consciousness.

At one point, they strapped a rod tightly behind his knees forcing Mr. Nelson to do deep knee bends until both knees snapped and he fell to the floor in excruciating agony. As a result of this torture, an administrative law judge has determined that Mr. Nelson is permanently disabled.

As difficult as it has been for Mr. Smrkovski and Mr. Nelson to comprehend what happened to them in Saudi Arabia, it has been even more difficult for them to understand why the State Department has never taken any action to hold Saudi Arabia accountable for the barbaric conduct of its officials.

As Mr. Smrkovski explained, during his confinement, he managed to slip a letter to a U.S. consulate officer detailing the torture that he had suffered. Reflecting the department's principal concern when faced with such allegations, the U.S. consulate in Riyadh sent a cable to the department stating that were these allegations to become public they could cause embarrassment to our Saudi allies.

Mr. Smrkovski did meet with a U.S. consular officer and during that time the consular officer did observe the fact that Mr. Smrkovski was extremely distraught. Yet, no effort was taken to determine whether or not he had in fact been tortured. Yet, years later when I spoke to the same consular officer, he did sign an affidavit in which he said that he was not surprised by the fact that Mr. Smrkovski had been tortured and that the description of what happened to him was consistent with the mental state that he had seen Mr. Smrkovski in at the time.

Mr. SMITH. On that point just briefly, is that person still working as a consular officer?

Mr. WOLF. No, he is not. After Mr. Smrkovski's release from detention in November, 1986, he and his family sent letters to President Reagan, Vice President Bush and Secretary Schultz requesting that the United States protest his torture to the Saudi Government, a modest request.

The Department, however, rejected that request stating that it could not raise the issue of his torture with the Saudis because he had failed to make such a request while he was imprisoned. Of course, the Department was well aware of the fact that the reason why he did not make such a request was fear that it would lead to further torture.

Like Mr. Smrkovski, Mr. Nelson asked the Department to take up his claim with the Saudis in November, 1984, just weeks after

his release from detention. In legal terms, Mr. Nelson was asking the Department to espouse his claim against the Saudis which would in essence transform his claim into a claim of the United States against Saudi Arabia. The Department refused to do so, offering only to assist Mr. Nelson in obtaining Saudi counsel so that he could bring his case in Saudi Arabia.

Unwilling to return to his torturers, and Mr. Chairman that in fact is a requirement. The Saudi Government has made it clear that if a person is to bring a claim before a Saudi court, they must return to Saudi Arabia. Mr. Nelson instead brought suit against Saudi Arabia in the United States under the Foreign Sovereign Immunities Act. In February, 1991, a unanimous panel of the 11th Circuit held that Saudi Arabia was subject to suit in the United States for torturing an American citizen it had come to this country to recruit.

Now, at this point, the State Department became actively involved in the Nelson case for the first time. Bowing to an intense lobbying effort by the Saudis and their U.S. counsel, the Department filed briefs first in the 11th Circuit and then in the Supreme Court in which it warned of major foreign policy ramifications if the panel's decision were allowed to stand.

In April 1993, the Supreme Court accepted the Department's argument and held that U.S. courts lack jurisdiction to hear Mr. Nelson's claim. Following the Supreme Court's decision, we renewed our request that the Department espouse Mr. Nelson and Mr. Smrkovski's claim.

Mr. Nelson's request had been pending since 1984, but the Department still delayed for another year and a half before it finally informed Mr. Nelson and Mr. Smrkovski that it could do nothing to help them because they had not exhausted local remedies in Saudi Arabia.

In other words, the Department was informing Mr. Nelson and Mr. Smrkovski that if they wanted any relief, they would have to pursue it in an Islamic Holy Court in Saudi Arabia where the testimony of a woman is worth half that of a man; a non-Muslim may not testify against a Muslim; two eyewitnesses are required to substantiate a charge of torture; and, according to the State Department itself, judges in political cases routinely defer to the wishes of the King and his Counsel of Ministers. Even if Mr. Nelson and Mr. Smrkovski could overcome these obstacles and obtain a judgment in their favor, the recovery would be limited to the *diyah*, which is literally blood money and which in the case of a fatal injury is the equivalent of 100 camels or, as I am informed, approximately \$32,000. Moreover, as non-Muslims, Mr. Nelson and Mr. Smrkovski would only be entitled to half the recovery that would be available to Muslims.

As the experiences of Mr. Nelson and Mr. Smrkovski demonstrate, the State Department cannot be relied upon to protect the rights of American torture victims. As former State Department legal advisor, Abraham D. Sofaer, testified 2 years ago to the Congress, "the Department's decision with respect to espousal is likely to be influenced not only by the merits of the case, but by the Department's concern for offending a foreign State and creating a potential irritant in its dealings with that State. This is particularly

likely to occur where the claimant alleges that espousal is necessary because local remedies in the State that are alleged to have injured him are ineffective and unavailable."

Mr. Chairman, those who make espousal decisions at the Department of State are bureaucrats, not independent jurists. They will readily admit that they are ill-equipped to evaluate the merits of claims alleging gross abuses of human rights or the ability of a foreign State's judiciary to provide meaningful redress for such claims.

The decision to espouse the claim of an American torture victim at the risk of offending a sovereign State with whom we have friendly relations takes a level of diplomatic courage that does not exist within the Department of State. Moreover, even if the Department were to take up such a claim, it is not likely to exert the level of pressure necessary to obtain a just resolution.

So long as the only avenue of redress for American torture victims is to petition the Department of State to espouse their claims, foreign States will continue to escape accountability when they perpetrate the most egregious violations of human rights upon our citizens.

When the anti-terrorism bill was initially passed by the House of Representatives last month, it included a provision that would have amended the Foreign Sovereign Immunities Act to permit Americans citizens to sue foreign States when those States torture American citizens. Unfortunately, at the insistence of the Administration, the bill was reconciled in conference to allow suit only against those States that are on the State Department's terrorist list, currently Cuba, Iraq, Iran, Libya, North Korea, Sudan and Syria.

I submit, Mr. Chairman, that where torture is concerned, it should not matter what country has tortured the American citizen. There is no principled reason to provide redress in our courts for American citizens who are tortured by officials of foreign States on the Department's list, but denying such redress to Americans who are tortured by officials of other countries.

So long as those countries do not provide adequate and available remedies for American torture victims in their courts, those victims should be able to seek redress in our courts. Accordingly, I would urge the subcommittee to support legislation that would amend the Foreign Sovereign Immunities Act to provide such redress to American torture victims. Thank you.

[The prepared statement of Mr. Wolf appears in the appendix.]

Mr. SMITH. As usual, thank you very much, Mr. Wolf, for your fine presentation. We are very delighted to be joined by a member of the subcommittee and, more importantly I think, the chairman of the Judiciary Committee, Congressman Henry Hyde.

Mr. Johnson, would you proceed?

STATEMENT OF DOUGLAS A. JOHNSON, EXECUTIVE DIRECTOR, CENTER FOR VICTIMS OF TORTURE, MINNEAPOLIS, MINNESOTA

Mr. JOHNSON. Thank you, Mr. Chairman, for holding these hearings and also thank you and Mr. Hyde and other sponsors of H.R. 1416, the Torture Victim Relief Act of 1995.

The Center for Victims of Torture was founded in 1985 as an independent non-profit organization setup by a Governor's task force in Minnesota. As the first organization of its kind in the United States, the Center unfortunately remains the only staffed comprehensive treatment program for torture victims and their families in this country. I have served as its executive director since 1988. I would just note for the record that I had the good fortune in my first 2 weeks on the job to meet Dr. Inge Genefke and have admired the energy and dedication and knowledge that she has brought to building treatment centers worldwide.

The center in Minnesota and the centers in the United States are almost completely funded through private grants and donations by concerned Americans. We believe our independent status is very important to our clients who are, after all, victims of governmental abuse and are justifiably concerned about maintaining their privacy. But the lack of Federal and State funding for our work is not desirable. It is also unusual in the industrial world. We are working with a problem that is created by governments and Article 14 of the Convention Against Torture requires governments to provide care and rehabilitation for torture survivors. But most importantly, the total reliance on private support has meant that we are a very, very small agency, and that few of our potential colleagues in the United States have access to the resources that we have. That means we always have a waiting list for torture victims very much in need of care.

We believe that in Minnesota alone there are 10 to 12,000 survivors of torture and that as many as 400,000 now reside in the United States. The U.N. Rapporteur on Torture reports that 72 governments used torture in 1995. That makes it very hard for us to estimate how extensive is the number of survivors or their affected family members. With so few resources at our disposal, it has to be said that we remain a drop in the bucket of what is needed to help survivors heal from their wounds.

From a humanitarian point of view, this is very alarming. But I hope to convince you today that the situation also runs counter to the strategic interests of the United States and to other countries seeking to promote the establishment and growth of democratic cultures worldwide.

Over the past decade we have listened to hundreds of survivors who gave information under torture only to be told that their torturers already had that information. From our experience and that of other centers, we have come to understand that the commonly held view that torture's purpose is to extract information or to force a confession is simply wrong. Getting information turns out to be merely a way to demonstrate to the victim how helpless he or she is in the face of new and powerful torture techniques.

We have learned that torture's purpose is simple. It is to eliminate particular leaders, especially from the grassroots, to prevent them from exercising influence in their community. It is to create a climate of fear in those communities, to discourage political opposition and activism. It is to produce a culture of apathy so that small groups of powerful people and interests can wield enormous influence on the shape of society for generations to come.

Traditional views and attitudes about torture have focused on the impact on the individual. Paradoxically, as we learn more about the impact of torture on the individual, we realize we must begin to look at torture and other egregious human rights atrocities as intentional culture transforming events.

For example, clinical research indicates that not only do the survivors of the Holocaust remain symptomatic for their entire lives, but so do their children and even their grandchildren have higher rates of clinical depression and suicide than the population at large. Trauma on this magnitude passes from generation to generation.

Once we adopt this trauma perspective, the conflicts in places like Bosnia and Rwanda can be seen as examples of what can happen when repression and atrocity are not addressed and are not healed. They leave a legacy of fear that is highly manipulable by repressive forces and they generate spirals of violence and repression in the future. Only efforts to heal can break this cycle of violence and vengeance.

Legal paradigms have dominated our notions of how to prevent torture, documenting facts, comparing them to established norms and accepted norms, and where possible but rarely accomplished, bringing perpetrators to justice. This model has some notable successes. The opening of the War Crimes Tribunal today in The Hague is, perhaps, one of them.

But the most striking success is the simple development of human rights organizations working on this model throughout the world, in almost every nook and cranny. The idea of human rights and of the protection from such atrocities as torture has never been more broadly disseminated than it is today.

Yet, we do not feel more secure, nor can the major human rights monitoring organizations assure us that torture has diminished. Quite the contrary. Places like Bosnia, Rwanda, Liberia, Guatemala, and Iraq have burned into our consciousness a sense of atrocity taken to higher and higher levels.

My father taught me an old adage when I was a child. It took me many years to understand. "When your only tool is a hammer, every problem looks like a nail." We need new tools now, new paradigms of thinking so that we can look at these problems differently and perhaps more effectively. The issues, we believe, are at once more subtle and more hopeful when the focus of attention shifts from the perpetrators to the victims of human rights abuses.

Although every effort should be made to prosecute perpetrators, this may not be, and often is not politically feasible until the broader community understands what happened and why. But this broader community has been educated through repression to be apathetic and fearful.

So how do we achieve that understanding? One important vehicle is addressing the needs of survivors directly through the creation of centers and programs to help them heal. By working directly with survivors, health care workers, community volunteers and public officials can learn what damage was wrought by repression and how much more potential will be lost unless we act with urgency.

We have to begin thinking and understanding that victims of torture are tactical targets. Their governments have invested in an infrastructure of repression: the recruiting and training of torturers, maintaining the systems of secrecy, and other major logistical operations. Governments make this investment in order to destroy people they fear.

I might add that the Center's clients have been almost evenly divided between victims of the left and the right and that this weapon is used by both kinds of governments without distinction; sometimes it seems as though they learn from each other.

Their intention is to destroy a generation of leadership on the grassroots level where new ideas emerge and where social change occurs. If creating victims is that important to the purposes of repression, the recovery of the leadership stolen by repression is an urgent task of those wishing to build democratic cultures.

We have seen from our own clients how their creative potential and capacities can be unleashed after care is made available to them. Fear unaddressed holds a community's imagination and discourages civic participation. Of 60 million people in Turkey, for example, only 1 million people are active in any form of civic organization. I was told by a government human rights official that is because of fear.

But just as the torture of one person sends ripples of fear throughout an entire community, a leader's recovery sends waves of hope along the same paths. And communities banding together to provide care and support can recover their confidence for taking risks for others.

In some repressive situations, the agreement of governments to permit a treatment center for survivors of torture is an important sign of change. We must be ready to support those signs wherever they occur as soon as the opportunity permits.

It is also true we must be prepared to protect those centers when they are under attack, as the centers in Turkey are today. The United States has a unique opportunity and a responsibility to lead renewed efforts to stop torture.

Both the Bush and Clinton administrations, for example, focused American leadership at the World Human Rights Conference on efforts against torture. They both reasoned that work against torture would continue to build an international consensus on human rights.

But we must move more boldly so that vision is not relegated to merely a tactical position for a conference. We need a renewed strategy to bring attention and consensus to the work against torture. We propose that strategy should be based on a paradigm of healing focused on the needs of survivors.

There are four essential elements of this strategy, and I have specific sub-recommendations on those, but for the sake of time I will submit them in writing.

Mr. SMITH. Just briefly summarize those and then we will go to questions, please.

Mr. JOHNSON. I think it is important to say that the strategy needs to be multi-pronged. The first issue is the first rule of health care which is do no harm. It is a good place to begin.

During all my years living and working in Latin America and while visiting places like Turkey and India and Africa I have been repeatedly asked why the United States trains torturers. I have to say this is a question that makes me feel very deeply ashamed. This widely held perception does much to weaken America's credibility with grassroots leaders and activists, precisely those people who are most in danger of being tortured in their own countries.

So first of all, we need to strengthen our resolve to make sure that we are not involved in torture in any way, and to counteract the perception that we are.

Second, we must highlight our purposes and our country's values by doing what we can to protect torture victims in refugee camps and through the political asylum process. I would support many of the concerns raised by the previous speakers.

The third key strategy is to promote the healing of survivors, their families and their communities by supporting the creation of treatment centers in this country and supporting centers in countries of ongoing recent repression.

And finally, to build key institutional mechanisms where we can work with others against torture, in particular to build the U.N. Voluntary Fund for Victims of Torture to be a new international program with the capacity to work against torture, and to support the U.N. Rapporteur programs on torture with more funds.

We are calling for a vigorous strategy of leadership for the United States to end torture. We propose putting the needs of torture victims onto the center stage as a valuable learning device about the purposes and effects of oppression and to create new ways of thinking about how to work against those effects. This is the leadership we see behind the Torture Victims Relief Act and we thank you and Senators Specter and Wellstone for introducing similar legislation in the Senate.

We believe the rewards of this approach for the American people are important. We gain a sense of defending the fundamental values of our culture and our belief in others. We recover important leadership, thought to be lost, that can work in partnership with us to create democratic cultures and societies throughout the world. And by exploring a new paradigm of action, we open ourselves to new strategies and increased effectiveness in our works to halt torture. Thank you, Mr. Chairman.

[The prepared statement of Mr. Johnson appears in the appendix.]

Mr. SMITH. Mr. Johnson, thank you very much for your testimony and your fine work on behalf of victims of torture. I would like to ask one opening question. Then I will yield to my distinguished colleague from Illinois, then ask some additional questions. In testimony that was submitted to our subcommittee by the U.S. Immigration and Naturalization Service, the Service states that in its asylum and refugee processes, the "highest priority is given to victims of torture". The INS adds that, and I quote, "the INS refugee adjudicators are trained that the demeanor of traumatized applicants can vary in these and other cases. Credibility does not hinge on the demeanor of claimants." Is this consistent with your experience in dealing with people who are in this system? Anyone who would like to begin? Mr. Jobe.

Mr. JOBE. Well, I think there are dramatic differences among the various asylum officers. There are asylum officers who are deeply sensitive and very well trained and then there are those that frankly are insensitive, bad tempered and frankly do not belong in those positions. Overall, I would say that the quality of the asylum core is high.

Mr. JOHNSON. We certainly observe changes in sectors of INS, and have had interesting dialogs on the national level about these issues. But this is a very complex phenomenon. We have been invited to participate in the training of new asylum officers. Out of a 3-week training, we were given the opportunity to speak for 2 hours. This is hardly enough time to build a basis for the kind of behavior, as well as the knowledge base, that people need in order to deal with these complex issues.

There is another aspect which is alarming to us. Not long ago we received a phone call from someone in the INS, a director of a unit who told us about observed cynical behavior while officers were listening to stories of atrocity, in particular from Haiti. One behavior was a tendency to laugh about those stories. They tended to become very cynical about the stories they heard. It took a story of extraordinary awfulness to break through that cynicism and be heard.

This director asked us what we thought was going on. We analyzed it as a problem of vicarious traumatization. We see it with our colleague lawyers who are not trained on how to deal with their own emotional reactions when hearing stories of atrocity and who hear them over and over again. We see this with other people who have to take testimony. We see it frankly with our own staffs who also spend an entire day listening to the atrocities that have been committed against our clients.

All of us seek to protect ourselves. Dr. Genefke talked about the problems that we all have about getting people to listen about torture and to think about torture. We have a human mechanism not to think about torture. That is one of the things frankly that makes torture such an effective political strategy and makes societies close down and learn what not to know while torture is going on.

So that occurs here, and I believe it is only natural for it to occur within the INS, and with any other officials or persons whose livelihood is based on taking testimony. It is a complex issue and I do not think the INS has dealt with it sufficiently at this point.

Mr. SMITH. Would that be exacerbated by the summary exclusion situation? Would that be made worse by summary exclusion?

Mr. JOHNSON. I do not know if the situation in the INS will be exacerbated, but it certainly will exacerbate the situation for torture survivors. We have a case recently of a client who helped his brother escape from jail, after having been held hostage for 10 years to lure our client back to the country. He was kept from the time he was 16 until he was 26 years old when he was broken out and escaped from the country.

When the younger brother was arrested, the police went to his home and took all forms of identification: his high school photograph, his national ID, every form of ID. So he had to leave the country with false identification. When he arrived in Europe and tried to apply for political asylum, he was told by U.S. officials that

since he had no correct identification, that he could not apply for refugee status.

This situation I think would be typical for torture victims of needing to escape often without proper identification and certainly without the documentation needed to record what happened to them. And I think consequently the summary exclusion rule creates a very real danger for torture survivors.

Mr. SMITH. Dr. Genefke.

Dr. GENEFKE. Yes, maybe I could share a little bit what we are doing in Denmark. We have specific educational programs, not only for health professionals and getting all the knowledge into their curriculum, but also for police and for judges and so on which is extremely important that they know about it. And they also, I think, should know when we talk about torture as such, of government-sanctioned torture, which is a power instrument which is used.

You also in countries like Turkey where you have government-sanctioned torture, you have also a torture of criminals. Therefore they have the highest percentage of admission to crime, finding out who has done the crime, because they are beating people in the police station. And they say have you committed this robbery? They beat them, no. They beat them, yes. This robbery number 17 they beat them and they go on like that.

So it is also a question in countries like Turkey and many others that the police have no knowledge. I think education for democratic interrogation technique is also important. We should look into education of different professionals. That is a very important part.

Mr. SMITH. Mr. Hyde.

Mr. HYDE. Well, thank you, Chairman Smith, and I congratulate you on arranging this hearing and this series of hearings on human rights that should be very troubling to anybody who listens. It is particularly troubling to know that you can be in a very difficult situation in a strange country and your own embassy does not want to help for fear of jeopardizing relations with that country. One would think that a citizen would come first and maybe if we get some specific instances of that, that ought to be something we could take up with the Secretary of State who is the ultimate person responsible. I can certainly see how that happened. But I just congratulate these people for their work in a very difficult painful field and I am glad they are doing it and sharing their experiences with us. Thank you, Mr. Chairman.

Mr. SMITH. Thank you very much, Mr. Hyde. I would like to ask some additional questions. Dr. Genefke, as you know, the U.S. State Department's country reports and human rights practices reported that torture remains a very serious problem in Turkey and you did mention Turkey earlier in your testimony. It is often employed during incommunicado periods such as during detention and interrogation by the police.

Why then is it that the Turkish Government, which seeks to project a rather different image to the outside world, is attempting to close treatment centers for victims of torture established by the human rights foundation, an organization that also has done a very good job in documenting human rights abuses?

Dr. GENEKKE. Well, having been working with our Turkish colleagues for now 9 years, we have quite a lot of experience with what goes on in the country and we have close contacts with people who have been into the prisons also and have seen the atrocities there. I would say no police stations.

And there has always been a balance in Turkey. You know, the good and the bad. And in fact, there are good forces in Turkey. They were, I may say, specifically in the Foreign Ministry. In the Foreign Ministry there have been many very good people and civil servants working there with good intentions and trying to avoid having torture. Then there have been other cases where the people wanted to go on with the torture. And there has also been a balance. Also, the very time there could be four centers, one by one by one and we have had in 1992 we had a big symposium in Istanbul on torture and there the Minister of Health came and there were maybe 50 countries talking about torture and he came and he was giving compliments and said that he thought that torture should not take place.

When they opened the center in Istanbul, I remember clearly the Minister of Human Rights was there. He was a Kurdish person. So there has been this balance and we saw it as a good sign that although there was horrible torture in the police stations, still you could have these functioning.

And that is why we are so worried now because within the last year. You know, what happens in EU. We have accepted the Turkish Government there. And we were doing it and we were hoping that that would have helped the situation. But on the contrary, there has been the strengthening of the situation. And I think it is a very, very, very bad sign that the Minister of Justice is now Mehmet Agar and I am very afraid because I know that the doctors we know have been threatened. And I am afraid they risk going to jail if you do not protest heavily from your country at the trial which is in 2 days and have some people there from your embassy. We are sending the ambassador from Denmark. We have talked to a lot of journalists. There will be journalists. We will be there, doctors from our organizations are going there. Then that, I think, is a sign because pressure helps and I think that is why the Foreign Minister so far has been, may I say, the best one because international pressure helps. But now what is worrying us is that it comes from the Foreign Minister. We have secret letters going to the Minister of Health that they should ask to give these names. So this is a very, very bad sign. And I think if we act now very strongly we can have the balance back. Of course, we cannot expect to do things quickly. We all understand that. But it is a very, very crucial moment now, very, very crucial. And, of course, your country as the only super power, can do a lot and I have been together with the ambassador of Turkey to Denmark. They made a lot, a lot of publicity. On our television we had the lovely Turkey with how beautiful it was, how nice it was. And I have to say they have forgotten to describe the screams from the police stations. And I think now is a crucial moment for you to act.

Mr. SMITH. I appreciate that. Thank you. Let me ask a question. Under Article 3 of the U.S. convention against torture and other cruel, inhumane and degrading treatment or punishment, which as

you know entered into force in the United States on November 20th, 1994, the United States has agreed not to expel, return or expedite a person to another State where there is a substantial ground for believing that he or she would be in danger of being subjected to torture.

Now, as you know, we have in H.R. 1416 the statutory implementation for that international obligation. Do you believe the INS is capable or is likely to enforce that absent a statutory requirement to the degree that it ought to be enforced? Will it be faithfully adhered to?

Mr. JOBE. I noticed in the testimony provided by INS that they say that there is administrative authority to furnish protection under Article 3 where appropriate. I have handled 1,000 cases, many of whom would qualify under Article 3 for protection. I have never heard of any such procedure. When we raised this with asylum officers in the cases where we have had problems with the "on account of", we have gotten blank looks staring us back in the face. I do not think anything exists. I think we need legislation to implement Article 3 or else it will have no impact whatsoever.

Mr. SMITH. Mr. Wolf.

Mr. WOLF. That would be the extent of my comment.

Mr. SMITH. Could you tell us about the failures and the successes of the U.N. Voluntary Fund? As you know, we would contemplate a \$3 million donation to that from the United States. Is that enough? Is it too little? How much would be needed really to do the job adequately?

Dr. GENEFKE. How much money? I can provide you with how much need is in the world for creating really effective work and what we think should be bases for having at least one center in the small countries and more centers in the bigger countries, but not too many. Then there should be also money for creating programs and so on.

But most of all, there should be a general awareness and make this open because it helps when we go into even difficult countries with our centers and our work, there is a chance that there will be a change. It takes some years, but I think there are changes. And if you ask me, I can provide you with—I have to look, but I can give you the figures we created. It is now turned out as a U.N. paper. It was just printed now and I have it with me. I can provide you with it. I do not know if you will have this now.

I think it is too small, but it is not very much, about \$40 or \$50 million a year. And I mean, this is peanuts and we are talking about democracy in the world. We are talking about going against the most horrible power instrument we have, namely torture.

And we can probably not avoid torture when you have wars like in Yugoslavia and so on, but you can avoid torture made by governments toward their own citizens. There we can make sufficient pressure. And if we do that, you give a signal.

If you do that from the United States, you are the leading country. You will give a moral signal and if you say I think \$3 million, as I try to say to you maybe a quarter of a dollar for each of your persons in your country. I think that would be appropriate. And I do not, I really do not think that that is too expensive for having democracy here, maybe create democracy in the world.

Mr. SMITH. Yes, Mr. Jobe.

Mr. JOBE. Mr. Chairman, if I could just make one additional comment with respect to your earlier question on Article 3. I believe also that there is case law from the Board of Immigration Appeals. The case is *Matter of Medina*, I believe, which holds that immigration judges and the Board of Immigration Appeals are without authority to grant relief on the basis of an international treaty or international law in the absence of an implementing statute or regulation. And for that reason immigration judges and the Board would also be without authority to grant relief under Article 3.

Mr. SMITH. That is something we will pursue with the Administration too. Because we had invited the Administration to be here and we did get some written testimony from Phyllis Coven, the Director of International Affairs for the Immigration and Naturalization Service. And she argues, and this is her quote, "all INS asylum and refugee adjudicators are given expansive training on issues related to torture in order to sensitize the adjudicators to the unique humanitarian issues involved in such claims." And you talked of blank stares a moment ago. The two certainly do not mesh. Mr. Johnson. And again, we will follow up on this.

Mr. JOHNSON. We have a number of specific cases of our clients that I think would illustrate the dangers and the need for the implementation of that legislation. But I wanted to comment on the U.N. Voluntary Fund again. This year for 1996, the U.N. Voluntary Fund has received requests from treatment centers totaling about \$6.2 million.

It has, as of last month, about \$2.5 million to dispose of. So it will meet something like 40 percent of the requests that are being put before it. You have to understand that these requests are coached by the Voluntary Fund, especially for new organizations and are far less than what is actually needed. The Voluntary Fund is extremely important, especially in countries of oppression. As a U.N. agency it is allowed to act when bilateral assistance is not appropriate.

It acts in situations where matters have been polarized and people have taken sides on one side of the cold war or another. This has left a long legacy that also makes bilateral aid sometimes inappropriate. The role the Voluntary Fund plays as that of peacemaker and representative of the international community is very important.

The other thing they are trying to do is to stimulate the development of other resources for new treatment centers. So their rule, I think, is that they cannot provide over 75 percent of a new center's funds. And that way the center also has to be engaged in finding contributions elsewhere.

But nevertheless, when we apply for the fund, we cannot apply on the basis of what we need to do our programs but on what might be available and what the staff has coached us to ask for. So consequently, the \$6.2 million in no way represents what the need is, but only what people think maybe there might be some reasonable chance of getting.

Dr. GENEKKE. May I add that during the last 4 years we have initiated centers around the world in the poor countries and we need for running a center in poor countries about \$150,000, not

more, a year. Not more. For giving hope and help for lots of people there. And you should know how much we work for having this stupid amount of money.

I mean, this is ridiculous. We are working and talking about that you have a power instrument equal to money. And people can laugh at us. It is ridiculous that we are talking about this. And we know that for having centers in the more industrial countries it is about \$500,000 and you are not providing that in your country. And this is ridiculous. This small amount of money we are struggling and we are talking about this shameful \$3 million. \$3 million. And I am not thankful for it. I think it is shameful that you are not giving more.

When we have a particular budget line in EU, we have been working very hard and they are very good people are understanding and are helping as politicians. Now this budget line and people think we should be very thankful. It is \$6 million ECU, a little bit more than dollars. And that is what we are working with and then we have our government. You know, that is what we have to make good with in the world where torture is a leading instrument and where people do not want to hear about it. As also I do not want to hear about. Dr. Larry Hartmann from your American Psychiatric Association. He was exactly underlining this yesterday. People do not like to hear about it. That is our situation.

Mr. SMITH. One of the most brutal legacies of the Bosnian conflict was the use by the Bosnian Serbs of rape as a way of demoralizing the Bosnian Muslims. We had a hearing on the Commission on Security and Cooperation in Europe. Two years ago, we heard from NGO's and then privately met in the back with two women who had been repeatedly raped. One woman who was held for 6 months, and I have never seen a blanker stare and a more vacant look in a person's eyes than in hers. The woman was absolutely devastated. And I am wondering, Ms. Diaz, you might want to respond to this, whether we are doing enough to help these victims of these kinds of gender crimes, in which women are singled out for this kind of atrocity simply because of who they are. Are any of these women from Bosnia being helped in any of the centers for the victims of torture? Ms. Diaz.

Ms. DIAZ. As far as how much we are doing or not doing, I mentioned in my testimony about resettlement issues. There are, of course, thousands of these women and girls living in western Europe. Currently, the State Department is not processing the claims of those individuals because they are in exile in western Europe. If they were in Croatia or in some other places, they may have been able to bring their case forward and have it reviewed.

So I think that is a problem and I think the refugee resettlement program should be reviewing those cases and should be taking those individuals into consideration, especially those who cannot and have no chance of ever returning back to those villages where these atrocities happened.

So I think there is a lot more that we can do. And I think in the rebuilding process as AID and some of the other agencies start to devote money to rebuilding, they cannot forget to fund centers like mental health programs and other things that they funded throughout the war but they are now starting to turn away from,

saying we need reconstruction: we need highways and buildings and other things so we can no longer afford to provide psychosocial support.

We do not agree with that. We think there are women and children and families who really need that support to continue and we should be part of that effort.

Dr. GENEKKE. Maybe I should add that we have been behind treatment centers in Zagreb and from there we have been helping a little bit more than 2,000 refugees in making also training programs which is not so difficult in the counseling level. So that they help themselves.

And now we are going out. We start in Sarajevo and we will go out further. And I think this is extremely important to recognize the victims, to recognize the victims. Because it is more easy like you have seen in Argentina, like in Chili, like in these countries to forget the victims and just go on and then you have this horrible thing like impunity and victims they want to put them away. We have heard enough and so on and so forth.

And therefore, you will always have a brutalized society and never really democracy in such countries where you have the torturers going together with the victims. I think this is extremely important that we show respect and dignity toward the victims. And if you as the super power give signals to that, you can have an enormous influence, a moral influence and that means a lot.

I think at least one set of moral rehabilitation we give in our medical rehabilitation. It is also the moral recognition of the suffering.

Mr. SMITH. As was pointed out in testimony earlier, it does not matter to the victim whether the torturer is right wing or left wing. The pain and the cruelty is the same. Mr. Wolf, can you tell us what is your experience with the fairness and the impartiality of the dispute resolution system in Saudi Arabia? Were the torturers of Mr. Smrkovski just renegades, or was their behavior part of a larger pattern that continues to this day in Saudi Arabia?

Mr. WOLF. Well, taking up the second part of that question first, I do not believe that there is systematic torture committed against American citizens in Saudi Arabia. However, the torture of prisoners in Saudi Arabia continues to be a routine practice, whether those prisoners are from Saudi Arabia or from other countries and I am aware of a number of cases involving individuals from the Philippines and from Jordan and from many other countries in the Middle East who have been victimized by torture in the Saudi system.

As for redress for torture victims in Saudi Arabia, as for the opportunity for legal redress, it is simply non-existent, largely for the reasons that I have specified in terms of the procedural quirks, as it were, in the Saudi system. And also because of the fact that I just do not think that the Saudi Government which fairly controls the judiciary in political type cases would be willing to allow a case to prevail involving allegations of torture and I believe that to be the fact. These cases just simply are not brought because they would never succeed.

Mr. SMITH. Is there anything else that any of you would like to add before we conclude?

Dr. GENEFKE. Yes, I would like to add something because I think that H.R. 1469 is an extremely good bill and I compliment. But I think also we have these conventions against torture, I think of the United Nations. During the last 20 years we have had a lot of convention declarations. There have been quite a success with all of this. But it should not only be blah, blah, blah and words. And I see you work for implementation.

I would like to give you an example which could give a signal also. Pinochet who was behind a lot of torture in Chile, he went to Holland, Chile had ratified the U.N. convention. And there were some people saying he should have been taken to trial according to Act U-8 of the U.N. convention and he was not. But I think that if we could be very much aware of people like him if they go to our countries and from this that we then bring them to trial and we do these things with these people, that would be a signal and that would also add to prevention.

I think we have seen during this many years of work, 20 years ago people were not talking about torture. Thanks to Amnesty, to American Watch, to maybe also that we have been working very good together, the Minnesota Center and we and so on, we try to let people talk. Because we do not say it is decent that the torture victims should talk.

They have been so humiliated. They have no self-esteem. They have such a horrible time. We the professionals should talk for them. And I think that is something we should realize. Take it out of silence and talk more and more. And it is difficult because people are like apes—not listening, not seeing, not speaking, but we have to bring it forward and I think you have made a very good working in getting this hearing.

Mr. SMITH. Thank you. And just let me say that I hope that the War Crimes Tribunal will have at least a chilling effect on future atrocities. But I frankly have been very much disappointed in the fact that some of the biggest fish, some of the most egregious violators, probably will go unpunished either through lack of apprehension or by not being brought to trial.

Or as in the case of Milosovich himself—the architect of the war first against Croatia, then against Bosnia. In several meetings I have had with the Administration they said they do not have one scintilla of evidence on him that he has committed any atrocities.

This is the man who had the ability to turn on and turn off the war at will. The evidence is overwhelming that he is the architect of that war. And yet they have no plans whatsoever to prosecute him because he is a “peacemaker” now, after the Dayton Accords.

And I think that sends the wrong message, namely that you can do unbelievable damage to people and inflict cruelty if at the end of the day you bring the nose up like a crash-landing plane and say, “I am a peacemaker now. Let us agree.” You get off scott free. Very bad message I think to send to despots around the world. Mr. Johnson.

Mr. JOHNSON. I just wanted to close with a note of gratitude and also a very important note of fact. The H.R. 1416 has been pointed out to me as the legislation that had the broadest ideological coalition of any piece of legislation introduced in Congress this year. It

gained the originating support of Mr. Hyde and Mr. Frank. When has that ever happened before?

The issue of torture ought to be a bridge issue. At the grass roots level people of all kinds of ideological stripes and interests in all sorts of countries are concerned about the issues of torture. It is a basic value of our people that we should not participate in it, that it should not occur, and that we as a nation should represent in the world freedom from this kind of egregious behavior.

We think the bill that you have produced is a bridge issue in Congress. We were very hopeful when it was first introduced and you had 15 remarkable strong leaders in this as original cosponsors that represented for us a lot of hope for us as agencies but also for survivors of torture.

We know there is a very difficult time as we approach the elections sometimes to keep things in a non-partisan level. But we are very grateful for your leadership, Mr. Smith, for having pulled together that coalition and urge you to renew your efforts please to keep this bridge open to both parties, to conservatives and liberals, because this is something I believe the American people will value.

Mr. SMITH. I thank you and we will try to move this legislation. As you know, it was jointly referred to Judiciary and part of it to this committee. We also took parts of it as you know and put it into H.R. 1561 which regrettably for other reasons apparently was vetoed by the President. So we will keep pushing forward. And I do believe that we will make progress. So long as I chair this committee or sit in Congress, I will not relent.

Dr. GENEVKE. May I just say I do not think you understand how much you could change thousands and thousands, hundreds of thousands of people's lives if you say the contribution this year from the United States should be \$10 million to the Voluntary Fund. I do not think you really understand how many people's lives you would give much better life but also the moral signal. \$10 million. I mean, my government gives \$1 million each year for this work. \$10 million is not too much. That would be fantastic. It would change a lot.

Mr. SMITH. I very much appreciate that statement. A representative of John Shattuck's shop is here and I know she will bring that back to him and I will also talk to him about that. We had to push very hard to go from the \$500,000 to \$1.5 million, and I thought that was a paltry sum to begin with. And I hope we can ratchet that up significantly even in these times of declining dollars.

I want to thank this very, very fine group of witnesses for the good work you do. We are very much indebted to you. Your work often goes completely unnoticed, except by the survivors and a few in Congress and the House and Senate.

Thank you so much. The hearing is adjourned.

[Whereupon, at 5:29 p.m., the subcommittee was adjourned, to reconvene subject to the call of the Chair.]



APPENDIX

2

PREPARED STATEMENT

Name: James Edward Smrkovski, US citizen, born 2/23/39

Client of the Minneapolis Center for Victims of Torture

Date of Hearing: Wednesday, May 8, 1996, at 2:00 pm

House Committee on International Relations

Subcommittee on International Operations and Human Rights

Subject: Victims of Torture

(41)

My name is James Edward Smrkovski, a US citizen, now living in Minneapolis, Minnesota. I have spent the greater part of my 57 years of life traveling and working in the field of language education in foreign countries.

In September, 1976, I was recruited by the Kingdom of Saudi Arabia through TWA to work for Saudi Arabian Airlines as an English Instructor. For the next 9 years I performed duties of English-language instruction for ticket agents, reservations agents, mechanics, and pilot trainees. These duties included teaching, developing materials and programs, and managing language programs. Through the years I made friends with dozens of my Saudi students. Many were extremely critical of the Saudi ruling family. I listened intently to their criticisms but was very careful not to agree or disagree with their views or to express my own views of politics and religion, two strictly forbidden subjects in their Kingdom.

One late night in the summer of 1985, as my family and I were entering our villa in Saudia City, a suburb of Jeddah, I was suddenly led away by men in plain Saudi clothing. For the next 454 days I was held in various interrogation centers in Jeddah and Taif. Out of these 454 days I spent ten full months in solitary confinement in underground cells with not even a mattress to sleep on; one of these cells measured three feet by six feet.

During the first 26 days of my captivity, neither my family nor my government knew of my whereabouts. During this time I was repeatedly asked questions about my travels to Iran, Germany, and Israel; about certain students of mine and several acquaintances from Syria, Austria, and Germany; and about my alleged involvement in terrorist activities, espionage, and arms smuggling in the Kingdom. During these 26 days and nights I was kept awake with noise, lights, and dousings of hot-and-cold water. One of my interrogators repeatedly threatened me with mutilation and execution if I didn't give them information which they insisted I had. On numerous occasions, I was forced to do knee bends to the point of exhaustion and collapse; I was forced to stand with my hands cuffed to a steel bar high above my head for hours on end; I was beaten on the feet with a bamboo rod, given electric shocks on my arms and legs, and at one point had six of my toenails slowly ripped from my feet.

Apparently convinced that I didn't have the information they were looking for, one of the interrogators had me cleaned up, shaved, and driven blind-folded to a court, where I was forced to sign a confession to selling alcohol. Later, on day 26, my chief interrogator told me I had a visitor. He warned me not to discuss my case and not to complain about my treatment. I was then driven blind-folded to a police station, where I waited for hours in vain. I was driven back to solitary confinement then taken again to the police station, where I met a U.S. consular officer. The chief interrogator sat in on our conversation listening intently to our every word, making it impossible for me to say what was actually happening to me.

During the long months to follow I was repeatedly moved from one location to another, each time led to believe that I would soon be released. It wasn't until Day 454 that I was put on an airplane and flown to Bangkok, Thailand, where my family didn't recognize me for I was 40 pounds lighter than when they had last seen me.

Since my release from Saudi Arabia, life for me and my family, including my wife, my children, and my parents, has been exceedingly difficult. All of us are suffering from post-traumatic stress disorder resulting from my detention. My father, who had always been strong and healthy, was, I believe, especially affected; he often sank into depression, began drinking excessively, and passed away two years ago from pneumonia. I often blame myself for his death. My mother has also changed; she is no longer her former vibrant self. My wife, who, I feel, suffered emotionally more than I did (not knowing what had happened to me and imagining the worst) suffers from post-traumatic stress disorder but refuses medical help. Worst of all, our marriage has deteriorated.

For the first five years after my release, I often relived my experiences in the form of nightmares, flashbacks, and mental and physical pain. I could not sit in one position for more than a few minutes at a time without suffering from intense lower back pain and aching in my tail bone and knees. I was unable to concentrate, I had very little energy, and I was always irritable. To this day I have been unable to get full-time employment. I've tried teaching, but after an hour or two I get so exhausted that I have to stop and rest.

My symptoms of post-traumatic stress disorder were at times unbearable until five years after my release, when my brother Lonnie put me in contact with the Center for Victims of Torture in Minneapolis, Minnesota. At the Center I underwent intensive psychological and physical evaluations. For the first two years I received help from psychiatrists, psychologists, medical doctors, nurses, and social workers. Since then I've returned periodically to the Center for continued psychiatric and psychological therapy.

As a result of the help I've received at the Center, I feel that my life has dramatically improved; however, my doctors tell me that I may never fully recover from the emotional trauma I endured a decade ago. I now have significantly fewer nightmares and flashbacks, my aches and pains have decreased in intensity, and I am less irritable. My continued inability to pursue a career in education has forced me to find less demanding sources of employment. At present I am managing and taking care of an apartment building, which my wife and I have purchased.

Unfortunately, I have no insurance that covers my treatment and medication but have been able to obtain services from the Center in Minneapolis free of charge. The cost of such treatment and medication would otherwise have been prohibitively expensive. People like myself, who have been damaged by torture and are consequently unemployed or underemployed, find it very difficult, if not impossible, to obtain health insurance that will cover treatment and medication for post-traumatic stress disorder. I don't know what psychological and physical shape I'd be in today if it weren't for the aid I've received from the Center in Minneapolis.

Through the Center I have met numerous other torture victims who are unable to obtain insurance coverage for the aftereffects of torture.

In conclusion, I would like to emphasize the importance of making more funds available to help the countless thousands of torture survivors like myself.

Thank you for listening to my testimony.

**WITNESS FOR COMMITTEE ON INTERNATIONAL RELATIONS
ORAL PRESENTATION**

RICHARD JUMA OKETCH

**SPECIAL EDUCATION TEACHER AND PROGRAM SPECIALIST
FOR MINORITY ENCOURAGEMENT PROGRAM,
WITH ST. PAUL PUBLIC SCHOOLS, MINNESOTA.**

HEARING SCHEDULED FOR MAY 8th, 1996 AT 2:00 PM

"HOUSE COMMITTEE ON INTERNATIONAL RELATIONS"

**SUB-COMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN
RIGHTS**

ORAL PRESENTATION

My name is Richard Oketch and I am a survivor of torture. I am presently a special education teacher and a program specialist for the minority encouragement program in St. Paul Minnesota. I am also a doctoral candidate in the area of education.

I am here to urge congress to enact the Torture Victims Relief Act of 1995 (H.R. 1418). I was born in Uganda and became a torture victim during the military dictatorship of Idi Amin during the years 1973 to 1977. My family was involved in the civilian government prior to the coup of January 1971. Subsequently, my uncle, a member of Parliament, was shot during the first month of the coup for refusing to serve under that government. It was at this time that my entire family was considered a threat to the military regime. Through name recognition, a systematic elimination was begun. My father, two brothers, and several male cousins disappeared. My sister and her boy friend were picked up from the University and never seen again.

As for me , I survived death but was not far from it. I was imprisoned three times, either being picked up at worked or from my house. During my imprisonment, I was severely beaten, whipped, bayonnetted, cut and forced to participate in mutilation of other prisoners, forced to consume large quantities of liquor for the enjoyment of the soldiers. I suffered dislocated shoulders, cracked ribs, infected wounds, and was often denied food and water. I was forced to load dead bodies on trucks and clean the bloody mess off the torture rooms. Because some of the soldiers in the army were past schoolmates of mine, I was able to remain alive and to be here speaking with you today.

My physical wounds and bones healed, leaving some visible scars and an invisible mental scars that remain in hybernation. It is this mental scars that Center for Victims of Torture are attempting to understand and heal. For fifteen years I lived with the dimensions of torture derived from the original torture in the military prisons. It was mind against self. I suffered perpetual nightmares, flashbacks, anxiety attacks, and many times injured myself in an attempt to flee during sleep. I never slept for more than three hours, and for many occasions found myself lost in other cities other than Minneapolis.

I am here to tell you that it is only Center for Victims of Torture treatment centers that these problems can be reduced.

Their multidisciplinary approach and dedication have brought in greater support and recognition from the communities around the area.

That because of treatment at CVT; I am able to function and remain productive in society is a clear indication of the many successes of the program. But also that not all victims have the opportunity to achieve this freedom from mental anguish, because:

1. The center relies on voluntary donations and fund raising efforts to get things going.

2. Because of international restrictions faced by victims of torture along border control, and the fact that there are still no specific screening guidelines to identify torture victims; and

3. Lack of understanding about torture and torture victims as they struggle to make their case known.

I urge this committee to give this bill a chance to support treatment programs like Minnesota Center for Victims of Torture, and others like it in the United State.

Thank you.

**Statement by Dr. Tenzin Choedrak
before the
House International Relations Committee
Subcommittee on International Operations and Human
Rights
May 8, 1996**

"Victim of Chinese Torture in Tibet"

Thank you, Mr. Chairman and Members of the Subcommittee for providing me the opportunity to testify before you today.

My name is Tenzin Choedrak and I am a practitioner of traditional Tibetan medicine. For 17 years of my life, I had to undergo different forms of torture by China's occupying forces in Tibet. The fact that I have survived to tell this tale before this august body is not because the torture that was inflicted upon me was mild. Rather, my religious practice and my medical knowledge helped me to overcome my suffering.

It is nearly 20 years since I regained my freedom, but the memory of my prison days is still fresh in my mind. Although I live in freedom and dignity now, I am very mindful of the fact that the suffering that I endured many years ago is still occurring to thousands of Tibetans today.

A number of human rights organizations, including the International Campaign for Tibet, have documented that torture continues to be routinely practiced against Tibet's political prisoners. Common techniques include regular beatings, the shackling of hands and feet, the use of thumb locks and the application of electric cattle prods to sensitive parts of the body, including the mouth and genitals.

Ill-treatment of Tibetans occurs even before they reach the prisons and detention centers. When a prisoner is taken to the police station on the day of detention, it is not uncommon for him or her to be beaten and tortured. In fact, new techniques are now being used against these newly detained Tibetans, techniques which leave no marks on the body. Such methods include being placed under extremely cold conditions and then being abruptly subjected to hot conditions, being made to stand barefoot for over 24 hours at a time, and being interrogated for 12 to 24 hours without food or water.

In recent years, there have been twelve documented cases of individuals who have died from ill-treatment and lack of medical care inside prisons and detention centers, and it is suspected that there are dozens more. One recent case, a twenty-four year old nun, Gyaltser Kelsang, died in 1995 after she was beaten in prison and was forced to continue to perform hard labor without being provided medical attention.

I have also treated torture victims myself, including a 24 year old nun from Lhasa, Tibet's capital, who escaped in 1989 after having been subjected to sticks being forced into her genitals while in incarceration. Another 24 year old nun, Soyang, who is my niece, required treatment for heart problems when she arrived into exile in 1993 because the Chinese had let dogs loose to attack her. This year, I treated a monk whose back was very swollen from severe beatings he received while in prison in Tibet. I also treated Palden Gyatso, who testified before this Subcommittee last year on the torture he received by Chinese guards in Tibet. In addition, I know of many women in nunneries in Dharamsala, the seat of the Tibetan Government-in-Exile, who have suffered torture. At the inpatient department of the medical institute in Dharamsala, where I work, we have on average of 5 patients in our beds who need medical attention for torture wounds.

My own ordeal began on March 10, 1959 when the people of Lhasa rose up in unison against China's ten-year old occupation of Tibet. This uprising was ruthlessly suppressed by Chinese forces. In the subsequent days, there were constant sounds of artillery as Chinese military personnel bombarded Lhasa. Being one of the personal physicians of His Holiness the Dalai Lama, I was then residing in the residential complex of the Dalai Lama's parents.

On the afternoon of March 22, Chinese troops arrived at our compound. Without warning, they started shooting; four people in our house who had gone out to meet the soldiers were killed immediately. The soldiers, who were armed with machine guns, then stormed the building, shooting recklessly and ransacking the entire area. Everyone living in the compound, including myself, was rounded up in one windowless room on the first floor.

The next evening, we were informed that we were being selected for "studies", what we believed to be a euphemism for execution. We were then led out of the compound to the outskirts of the city and placed in a small room of a private house. For the next two days, we did not get any food or water. On the second night we were led from the room to the local People's Liberation Army (PLA) headquarters and kept in a maximum security prison there. I was manacled in foot-and-a-half-long leg irons. Each time I took a step the irons pinched my skin, giving me pain.

As the days went by, I began to witness gruesome sessions of 'Thamzing', which were methods of interrogation combined with force that were peculiar to Communist Chinese officials. One such method involved tying the prisoner in such a way as to give him maximum suffering. For example, a rope was first laid across the front of the prisoner's chest and then spiraled down each arm. The wrists were then tied together and pulled backwards over the man's head. Next the rope-ends were drawn under either armpit, threaded through the loop on the chest and pulled abruptly down. Immediately the shoulders turned in their sockets, wrenching the prisoner in a grisly contortion without strangling him. The pain from this torture was so great that a man would invariably lose control of his bowels and bladder.

A few months after my arrest, I was put on trial and accused of being an accomplice in the uprising against the Chinese invaders. As the trial progressed, I began to realize that I was being singled out for a specific purpose: to malign and defame His Holiness the Dalai Lama. For instance, my questioners told me at one time that the way to avoid Thamzing would be to confirm that the Dalai Lama was a thief and a murderer, posing as a religious man, and that he had an incestuous relationship with his sister.

After a few days of interrogation, I was then subjected to the first of a series of Thamzing. It began one morning with the PLA commander asking my fellow prisoners to "question Tenzin Choedrak very closely. You must find the truth." As one prisoner rose up asking me to tell everything, others grabbed me, tying my arms across a long board in a variation of the method that had previously been used. Trailing the rope off either end my arms were pulled tight even while I was asked to denounce the Dalai Lama. When I refused, the prisoners, under the watchful eyes of the guards, started beating me, pulling my hairs and ears, spitting on my face and pummeling my head. The pain in my arm was so great that I began to scream and it was only when I collapsed that the guards called for a halt. However, the beating resumed after a short rest and this pattern was repeated throughout that morning. In all, this session lasted four hours.

I was then removed from the cell and placed in solitary confinement. Of course, I was too weak to be aware of the shift in my location. It was only when I recovered that I found myself in a dark room, four by eight feet in dimension, with a small, barred window, high in one wall, and a six-inch-square hole for receiving food. On the mud floor lay a straw mat, a discarded PLA overcoat and a bucket for relieving myself. I was to spend the next four months -- the remainder of the summer of 1959 -- in this isolated area.

My daily routine included thinking over my "crimes" for the entire day. The door of the food portal (I only received a small steamed bun with some rice and vegetable in the morning through this) would open at regular intervals throughout the day and a guard would check to see if I was visibly pondering. My only relief was a brief glimpse of sky and breath of fresh air on the evening walk to the toilet. On the last day of each week, I would be taken out of the cell for questioning and asked what I had been thinking about for the past six days.

Halfway through July, I was subjected to a second session of Thamzing. Again, I received severe beatings which caused damage to my eyes. By the time I was dragged back to my cell, I realized that the retina of my left eye had been detached and the eyeball itself knocked to the upper left side of its socket. I could no longer focus straight ahead. I also found that the entire upper row of my teeth had come loose. Within a month, all my teeth fell out, leaving me with swollen and bloody gums. My shattered mouth and damaged eye remain a permanent scar from that particular Thamzing session. In August of that year, I subjected to an even more intense and brutal Thamzing session.

I will not trouble you with graphic details of that particular torture session. However, at the end of it, I had lost all sense of pain. My only sensation was that of an intense dryness in the mouth. As the dryness increased, I blacked out and when I regained consciousness, I was still imagining receiving blows. In reality, I was lying on the floor of the isolation cell; a bucket of cold water had just been thrown over my face. When the guards realized that I had revived, they yanked me to my feet and handcuffed me. Months later, I learned from my cellmates that when I collapsed, a PLA doctor was summoned, which was contrary to the medical attention that most Tibetans prisoners received. The doctor had pronounced that I was on the verge of death and he therefore refused to take responsibility for my case. Sometime thereafter, the Thamzing session ceased.

In October 1959, I was among 79 prisoners who were taken to China. Our journey began in November when we were put in trucks, 38 prisoners in each truck. We were forced to stand for the entire journey, which lasted ten days. On the 11th day, we reached Lake Kokonor in northeast Tibet and we were then transported east, toward Lanzhou, by train. From Lanzhou, we were split into two groups and my group was driven north, toward the Gobi desert. We finally reached Jiuzhen Prison, our destination, which was part of the dreaded gulags the Chinese had set up in the region. We were huddled together in small, cramped cells which provided only a foot and a half of space for a single prisoner.

Each day we were led to work in the fields. Guarded by PLA soldiers, who would shoot any man crossing his field's perimeter, we had to break enough barren ground daily, including irrigation ditches, to be suitable for cultivating

thirty pounds of wheat. A point system rewarded those who completed their quota, something a strong man could barely manage to do. Those who did not were punished. Returning from the day's labor, we had to undergo political "study sessions" lasting until 10 p.m. In addition, prisoners were randomly taken for a full-day of questioning in an attempt to wear them down.

In May of 1960, six months after our arrival in Jiuzhen prison, our rations were reduced from sixteen and a half to eight and a half pounds a month. To save yet more grain, the authorities started mixing indigestible roots and barks with the food.

Hunger governed our every thought. With the beginning of summer, the first symptom of starvation appeared: extreme enervation. By July, we all resembled living skeletons. Ribs, hips and shin bones protruded from our bodies, our chests were concave, our eyes bulged and our teeth (those who still possessed them) were loose. Gradually our eyebrows and hair, once shiny and black, turned russet, then beige and then fell out, the hair coming loose from the skin with just a slight pull. No one could walk securely. Leg joints felt locked in place, our feet were dragged along, too heavy to lift. When we returned from work we literally crashed down, unable to check our fall.

The first death, which had been expected, occurred only a year and a half later. We did not grieve, however, for we had lost all of our senses except for an ability to quarrel over food. We now realized that we were sentenced to die through forced labor, instead of being executed, so that the authorities could appear blameless. Within just a few days, the next man died. From then on, an average of two to three prisoners died every week with the longest interval between deaths lasting no more than a fortnight.

Death of a fellow prisoner occasionally provided an increase in rations -- for a single day at least. The loss could be hidden from the guards and the deceased's rations obtained. I was able to share an extra ration with another prisoner through this method when we found the man lying next to me dead one morning.

As the starvation continued we began to consume our own clothes. Leather ropes, used to tie the bundles brought from Tibet, were cut into daily portions with stones and shovels. Each piece was slowly chewed during work, in the hope that some strength could thereby be gained. I owned a fur-lined jacket, which had proved invaluable through the first winter, but in the course of the following summer, I was compelled to eat it. I began eating the fur. As winter came again, I managed to roast the rest of my jacket, piece by piece, over a fire and eat it. The other prisoners and myself also picked many plants -- dandelions were a

favorite -- walking to and from the fields. We also hunted for frogs and insects and dug for worms.

A more constant source of food was the refuse discarded by Chinese guards. Crowds of prisoners would gather around bones or fruit rinds thrown by the roadside.

As we were completing our first year in Jiuzhen, I collapsed and was hospitalized for three months. I recovered quicker than others in the hospital because I was able to develop a form of self cure. On my return to work at Jiuzhen, I learned that the death toll had soared. By October of 1962, only 21 Tibetans had survived. In that month, we were informed that we would be allowed to return to Tibet.

We were transported to Drapchi, Tibet's foremost prison in Lhasa. I was placed in a 14-man cell only 16 by 12 feet in dimension. It was so small that when each prisoner slept head to head in two rows, our feet hit the walls forcing us to bend our knees. We were forced to spend every waking hour in study, to confess our faults daily and to inform on our neighbor. It was at this time that mental breakdowns, depression and suicidal behavior appeared amongst fellow prisoners.

By this time, I had spent many years in prison, but no formal charge had been brought against me nor had I received a sentence. It was only in 1972 -- nearly 13 years since my arrest -- that I finally received my sentence. Although no charges were placed against me, I was considered an "upper class intelligentsia associated with the former Tibetan government" -- and was given a 17 year sentence.

Following my sentencing, I was transferred to a less restrictive branch of Sangyib prison, also in Lhasa. My "reeducation" being deemed complete, I was assigned to hard labor in the prison's quarry. Every day, I was forced to chisel 90 twelve-by-eight-inch stone blocks from boulders blasted out of the mountainside nearby. I could barely perform my share of work.

In the next year, a Chinese prison doctor, who was familiar with my medical knowledge, consulted me on a personal ailment when he learned that I was in Sangyib prison. The Chinese doctor recovered using my treatment and before long, I was removed from my cell and sent to work in Sangyib hospital.

In 1976, having completed my full sentence, I was placed outside of Sangyib prison although still considered "an enemy of the people". I was able to practice medicine once more and also started receiving a small salary for my work at the hospital.

In the meanwhile, direct contact between the Tibetan Government-in-Exile and the Chinese Government was being established. As a result, the first-ever fact-finding delegation from Dharamsala visited Tibet in 1979. That delegation included Mr. Lobsang Samten, a brother of His Holiness the Dalai Lama. He took up my case with the Chinese Government and asked them to permit me to visit India. The process took over a year and it was only in October 1980 that I finally left for India. I reached Dharamsala in November 1980. I was once again a free man.

Today, the Chinese government seeks to join the mainstream of the international community while at the same time it continues to deny that torture and ill-treatment of Chinese and Tibetan political prisoners is widespread and commonplace. As someone who has been a victim of torture by the Chinese government, I would urge the United States government to use its vast influence to bring about a positive change in China's treatment of the Chinese and Tibetan people. I would also urge the U.S. to support efforts by His Holiness the Dalai Lama to peacefully resolve the situation in Tibet.

I am very thankful for having been given the opportunity to address this Subcommittee. Although the reminder of my ordeal brings much personal agony to me, I realize I have to speak out so that those Tibetans still in Chinese prisons may have a better life.

Thank you, Mr. Chairman and Tashi Delek.

STATEMENT

on Torture in the World Today

by

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**Rehabilitation and Research Centre for Torture Victims (RCT)
International Rehabilitation Council for Torture Victims (IRCT)**

Copenhagen, Denmark

before the

**House Committee on International Relations
Subcommittee on International Operations and Human Rights**

Wednesday, May 8, 1996, at 2:00 pm

**ACHIEVEMENT AFTER MORE THAN 20 YEARS OF HEALTH PROFESSIONALS'
WORK AGAINST GOVERNMENT SANCTIONED TORTURE**

History of the Medical Work Against Torture:

The medical work against torture started in 1973, when Amnesty International launched a campaign against torture and asked medical doctors to take part in the work, with the aim of being able to help and diagnose torture victims. In the few cases where torture victims come as far as having a trial in court, they were and still are often accused of having performed self-damages, for instance burned themselves with cigarettes, or banged their head into a wall, or thrown themselves down staircases, etc. In such cases it is very important that we as medical doctors can perform examinations and prove that torture has taken place.

That was why we in Denmark called for creating the first Amnesty International medical group to start the work. The first group was created in 1974 and consisted at first of four voluntary doctors, but soon after we became 10. After only a few more years, there were about 4000 medical doctors from 34 countries organised in Amnesty International's Medical Groups.

We realized at once that we had to start from scratch. There existed at that time no specific knowledge about torture methods or their influence on the physical and mental health of the torture victims. Therefore, we started to examine Chilean torture victims, refugees who had come to Denmark, and Greek torture victims in Greece. We asked them in depth about the torture they had been exposed to and the sequelae to torture they suffered from. It was very difficult, and on the other hand very noble of them to accept being questioned and examined. I shall always remember the first meeting, when we evaluated the first 15 persons we had examined, as the most grievous one I have attended. At that time we realized that there were many not only physical problems (the forensic medical evidence we were looking for), but also mental problems in persons who had been exposed to torture - a fact, one had not earlier been aware of nor had any knowledge about.

The first seminar on Violations of Human Rights - Torture and the Medical Profession was held in 1978 in Athens. At that meeting there was about 100 medical doctors from 12 different countries. We created international working groups, one of which was to work with the rehabilitation of torture victims.

In 1979 we obtained permission to admit and examine torture victims at Rigshospitalet, the University Hospital in Copenhagen and were thereby able to establish the treatment principles for a rehabilitation programme. The Rehabilitation and Research Centre for Torture Victims in Copenhagen (RCT) was then established in 1982. All along we cooperated closely with colleagues on an international level, especially colleagues from Latinamerica and Asia, about the rehabilitation programmes.

In 1988 the official formation of the International Rehabilitation Council for Torture Victims (IRCT) took place, and in the years from 1992-1996 we have come as far as to now having a network of 100 countries participating in education, meetings, counselling and centre projects, and 34 centres have in that period been initiated with support from the IRCT. There are now 99 existing centres in 49 countries.

International Conventions and Declarations:

Before 1974, when the medical work against torture started, the only relevant conventions and declarations against torture were the Hippocratic Oath and United Nations Universal Declaration of Human Rights. Since the work started, there has been a true explosion of relevant conventions and declarations, not only from international and regional bodies like United Nations and the Council of Europe, with e.g. the very important UN Convention Against Torture and the Vienna Declaration, Freedom from Torture, but also ethical codes and declarations specifically for the health professions: doctors, nurses and physical therapists. (Table 1).

These conventions and declarations constitute an extremely strong weapon for us to have in our hands, but only if they are not just words. They are what we are doing with them. If we use them and do everything we can for the implementation of them, then we have the strong weapon against government sanctioned torture, which is the most efficient power instrument against democracy.

What is the IRCT doing internationally:

We are creating contact with groups and persons working for torture victims. We are sending out information and educational material, publishing our own Quarterly

Journal, "Torture". We are organizing international seminars in Denmark, as well as in foreign countries: Latin- and Centralamerica, Asia, Africa and Western and Eastern Europe, by 1995 a total of 20 international seminars. Within the last four years we have informed and educated 29.300 persons.

Besides, we have provided assistance to establish programmes and centres for victims of torture, given advice and support to existing centres, including financial support, not only for the rehabilitation, but also for projects, research and documentation.

Results of the IRCT Work against torture on the individual level:

We know now how torture affects the individual, we know about torture methods, after-effects short- and longterm, we know how to diagnose, and of course extremely important: we know how to rehabilitate the victims and how to rehabilitate them according to different models.

Over the years we have made a great deal of research concerning the somatic symptoms and objective findings after torture. We know that there are many complaints from the musculo-skeletal system, the neurological system, the cardio-pulmonary system, the gastro-intestinal system, the urological and genital systems, and we can see the objective findings from all the organs. Most findings are in the musculo-skeletal system. That is why we always recommend also to use physiotherapy or other therapies related to this system.

Furthermore, we have also made research concerning the psychological symptoms after torture. In an early study we found in about 200 victims of torture the

following symptoms: 1: emotional lability, 2: sleep disturbances, 3: disturbances in ability to concentrate / remember, 4: avoidance of thoughts or feelings associated with the torture, 5: avoidance of activities or situations that arouse recollections of the torture, 6: diminished ability to establish personal relationships, 7: markedly diminished interest in several significant activities, 8: sense of a foreshortened future, 9: sudden acting or feeling as if the torture situation was recurring, 10: change in personality, 11: survivor guilt, 12: anxiety. We have translated these symptoms into the "PTSD language". The first nine symptoms are correlating with the PTSD-syndrome, but the last three, (change in personality, survivor guilt and anxiety) are not. The problems after torture are included in the PTSD-syndrome, but are worse.

Rehabilitation models:

Today we know how to rehabilitate the torture victims. We have developed different rehabilitation models. The rehabilitation model used at the RCT is the holistic approach, where we take into consideration the psychological, somatic, social, legal, spiritual, familial and cultural aspects. A point of conceptual importance is that we are not considering torture survivors to have any pre-morbid psychopathology.

The treatment principle is:

- to treat physical and psychological symptoms at the same time,
- to secure the patient's trust and confidence,
- to respect the individual,
- to avoid situations which remind the patients of torture,

- to inform carefully about examinations.

We use psychological insight therapy, where we have the following phases: the meeting, the initial setting, the emotional phase, re-integration and end of therapy.

In other cases, we use psychological supportive therapy, where we are dealing with practical matters like bodily dysfunctions, etc., social matters, like housing and language, and integrational matters, for refugees to get a basic understanding of the new country, so it is a balance between insight and supportive psychotherapy.

We have special programmes for children and families: couple-therapy, family-therapy, individual child therapy, group therapy and network meetings.

Out-Reach Method for Screening and Rehabilitation of Torture Victims

This model has four points of importance: Availability, Accessibility, Adaptability and Appropriateness.

Availability refers to the services being available to meet the health needs, both general and special.

Accessibility means that the services must not be too distant or culturally insensitive.

Adaptability refers to the likelihood of the project being acceptable to the refugees and therapeutically effective at the same time.

Appropriateness is related to the question whether a project is appropriate to the refugee groups covered by it.

The Psycho-Social Support and Treatment to Dislocated War Victims and Torture Victims

The aim is to facilitate the social functioning of the person by:

- strengthening adaptive coping mechanisms,
- discouraging non-adaptive processes, and
- facilitating access to social opportunities.

Furthermore, to facilitate the psychological working of traumatic experiences, loss and bereavement people have had by:

- consoling, comforting and protecting them,
- sharing their experiences and feelings,
- recognizing their suffering and pain, and
- supporting them express grief when the first survival needs are satisfied.

Finally, to treat the persons who have developed psychic disturbances.

We have also a programme for Counselling

which is defined as: A method that, to some degree, takes into account a deeper understanding of the individual's experiences, giving relief and understanding.

Helping the person to solve problems and to make choices.

Indications of counselling are on behalf of the counsellor:

The counsellor must respect the confidentiality of information given and must be capable of handling situations which are loaded with painful feelings without

getting lost, and use them for the benefit of the client. He must also be skilled in analysing problems and give advice and know-how to help the client make his own decisions.

The counselling programme is aimed at persons who are not health professionals as doctors, psychologists, etc. We created the programme because in many countries you do not find a sufficient number of health professionals, but you can find other very good professionals like for instance teachers, even journalists or monks and nuns, etc., who can learn the programme and make a very good job, not as deep as an individual psycho-therapy of course, but they can really help victims.

The aim of counselling is to increase awareness of experienced traumas and the reactions to these. Furthermore, to give relief from the psychological suffering, to reduce after-effects of traumatic experience and to help the person regain control of life situations in order to become a full-blown member of society again.

Results of the IRCT Work against torture on the general level:

We have established general knowledge about the torture-related problems.

Educational programmes have been established with specific educational material today used in 100 countries for health professionals: doctors, psychologists, nurses, counsellors, medical associations, etc., and for other professions: police, judges, documentalists, etc.

There has been established research, development and project demonstration related to the torture methods and symptoms, therapy to torture victims, health professionals with regard to participation in torture, etc. So far this has among other things resulted in three doctoral theses, one PhD, and one doctoral scientific degree of honour. Our important conclusion is that valid scientific results can be obtained by humanitarian work.

The research carried out under the auspices of the RCT/IRCT since the establishment can be divided into:

1. Research projects carried out by persons employed at the RCT/IRCT and under the responsibility of the RCT.
2. Research projects carried out outside the RCT, but to which the RCT provides know-how or is an integrated part of the research project.
3. Research projects carried out within the IRCT network, and where the role of the RCT is primarily of a consultant or co-ordinating character.

We have established the IRCT Documentation Centre

The IRCT Documentation Centre holds 24000 items concerning torture etc. (in 1995). 6355 requests and loans have been processed in 1995. Internships, seminars and training with participants from 31 countries have been held, and there are 49 participants in the International Torture Documentation Network (ITDN) coordinated by the IRCT.

Information activities have been established.

We are publishing our own quarterly journal "Torture", as mentioned earlier.

Furthermore, we have produced a number of books in many different languages like Arabic, Albanic, Ukrainian, Spanish, French, English, etc., as well as articles and films. —

The RCT/IRCT has many PR activities and contacts to journalists, decision-makers, etc.

Finally, we have established general funding opportunities for centres worldwide by:

- lobbying activities aimed at governments to pledge (higher) contributions to United Nations Voluntary fund for Victims of Torture (UNVFVT),
- making a report on estimated "Need for funding of rehabilitation services worldwide" - (UN paper 1996),
- being behind the creation of a special budget line for rehabilitation of torture victims in the EU,
- working for funding via development aid agencies like DANIDA, SIDA, NORAD, etc., and by
- working for private funding, like the OAK Foundation which is our most important private donor.

Conclusion:

These more than 20 years' of professional medical and psychological work against torture has proved the following: Today we have sufficient knowledge. We have enough experience to be able to speak about torture and its effects in a more

substantial and assured way. Together we have sufficient basic knowledge (i.e. social analysis on a medical and psychological basis) allowing us to make very strong statements - now also to politicians and decision makers - against the practice of torture, and to disclose torture even when it is performed in the most "sophisticated" ways. The fact that our knowledge is founded on social analysis and with a medical and psychological basis is, in my opinion, the reason why politicians and decision makers listen to us.

What I think is needed today is to spread the knowledge, the expertise (through our books and other teaching material), and the analysis we have made on torture, as widely as possible, not only to professionals, but now also to the general public and to decision makers.

We have a unique knowledge, because our organization and network is founded on a professional basis (as doctors, psychologists, nurses, physical therapists, social workers, etc.). We have a specific professional knowledge about torture.

The analysis and documentation we as health professionals have made concerning torture is our strength. It shows torture as a power instrument "playing" with the physical and psychological health of human beings. This is, I think, why torture is disgusting and offending to most people. The fact that totally healthy people - and we know that these are the people in the country who work for better and more democratic conditions - are tortured with the acceptance and knowledge of the government, is a horrible fact.

Our research has proved that the torturers who work for governments try to break

down the victims, and we know that they are always capable of doing so if they want to.

Our research has proved that all over the world the torture methods - there are cultural differences - are the same, because the aim of torture is the same.

Our research has proved that torture is used as a power instrument towards people who are working for better and more democratic conditions in their own country, primarily people like student leaders, union leaders, honest politicians, journalists, leaders of ethnic minorities, etc.

Our research has revealed that torture is used in one third of the countries in the world today, because governments want to stay in power, and that is why they use torture as a power instrument. Our research and our IRCT network has revealed this pattern. This is where our analysis has been of extreme help, and we should use all our strength and energy to spread this horrible knowledge.

The people in power, i.e. the people responsible for torture, have of course always known these facts. The new thing is that we, who want to help the victims, now understand (because of these many years of health professional work) how horrible and longlasting the effects of torture really are. Now we are as clever as the torturers, they cannot fool us anymore.

When we started talking about torture some 22 years ago, there was another silence about what really happened under torture. At that time, we were not aware that the torture victims could not break this silence because of the torture induced shame, guilt, personality changes, low self-esteem, anxiety, depression, etc. Because the torture victims were suffering so much psychologically, they could not explain.

This knowledge, and the fact that we can explain it as professionals, is a weapon in our hands - thereby we can break the silence. Before we had this knowledge, the torturers had succeeded in creating a sort of secret between themselves and the torture victims by putting up a wall of silence and myths. This wall is now being broken down by us. The most important thing our organization and network of health professionals has done is this discovery.

But who will listen ? How do you reach the broad public ? How do you reach the most important decision makers ?

This is our greatest challenge now. The message of torture is not a nice message. It is not pleasant to read or hear about torture or to talk or write about it. But it is necessary ! Our task is in fact very simple - but also very difficult. One of the most horrible things when you hear about torture is to realize that it is the reality and not a film. To realize that so many governments throughout the world use torture towards their own compatriots with the purpose of staying in power. Torture victims always tell us that we, who have not been tortured, can never understand what happened to them. Torture chambers and all the things related

to torture are so horrible, cruel and almost surrealistic that it is hard for any "outsider" to even begin to imagine. I do not think we should try to understand what happens - but we should know why it happens, the motives behind torture, and then fight against it with all our strength. In fact it is our democratic world we defend, even if the torture is taking place in countries far away.

The German poet Goethe once said that only those who fight for democracy every day deserve it. When people do not want to hear about torture and to act against it, they are not only not helping the torture victims, they are actually helping the torturers. Lack of action also has an effect. The thing to do if we want to help is to talk openly about torture, to write about it in newspapers, etc., to expose the countries using government sanctioned torture, to support organizations working against torture and to treat torture victims (= refugees) with respect for the horrible things they have been exposed to. Only in this way can we show our disgust for torture.

But each and every one of us has a choice between doing something or staying passive. As Edmund Burke said: "The only thing necessary for the triumph of evil is for good men to do nothing".

STATEMENT

on trials against employees at centres in Turkey

by

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International Rehabilitation Council for Torture Victims (IRCT)

Copenhagen, Denmark

before the

House Committee on International Relations

Subcommittee on International Operations and Human Rights

Wednesday, May 8, 1996, at 2:00 pm

Accusations against employees at the HRFT-centres in Turkey might lead to the destruction of the work against torture in Turkey

I would hereby like to draw the Congress' attention to the trial in Adana where a medical doctor and a lawyer working at the HRFT-centres are accused of refusing to give names of their clients, who are torture victims, to the Turkish authorities.

The Human Rights Foundation of Turkey (HRFT) now has four centres in Ankara, Istanbul, Izmir and Adana respectively where doctors and other health personnel are rehabilitating torture victims. The IRCT was behind the foundation of these centres and has a close collaboration with our colleagues in Turkey concerning rehabilitation of torture victims. Professor Veli Lök from the centre in Izmir is a member of the IRCT council, and we have also collaborated with him concerning research with the aim of disclosing torture.

The first HRFT-centre was opened in Ankara in 1990, and the newest center was opened in February 1995 in Adana.

As a part of their work, the HRFT regularly sends out reports and publications concerning the human rights situation in Turkey (including the number of clients they rehabilitate), and since 1994 various people working at the centres have been prosecuted in connection with these publications.

According to the HRFT, the Turkish Ministry of Foreign Affairs has now asked the Turkish Ministry of Health to demand names of clients treated at the centres and doctors working there. One of the authorities' arguments is that torture is a crime and that the victims should therefore come forward and accuse the relevant persons of such a crime.

The doctors in Turkey have of course refused to give the names of their clients, and therefore a doctor and a lawyer from the centre in Adana are now facing trial.

The IRCT is deeply concerned about this. Our principle is to protect our clients as much as possible, and bearing this principle in mind we work under the strictest professional secrecy which is a universal and basic condition for all medical treatment. An attack on this professional silence would be totally destructive for our work for torture victims.

Furthermore, in a country like Turkey where the state is behind the execution of torture, it is obvious that only an inconsiderable percentage of the victims dare come forward and risk their own safety/life and the safety/lives of their family.

We think it is worth noting that the Minister of Justice in Turkey, Mr Mehmet Agar, was previously head of the police in Ankara, later on in Istanbul and then head of the Turkish police. Another thing that is perhaps worth mentioning in this connection is that the human rights situation in Turkey has not improved since Turkey signed the European customs union, on the contrary things have deteriorated.

Everything that could be done to create awareness about this grave situation would be of utmost importance - the trial is taking place on 10 May.

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Testimony Regarding

H.R. 1416 and the Protection of Women Refugees

Who Have Been Victims of Torture

Presented by

Mary Diaz,
Director

Before

The House International Relations Subcommittee on International Operations and Human Rights

May 8, 1996
Washington, DC

An independent committee formed with the assistance of the International Rescue Committee for the study of problems affecting refugee women and children.

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I. Introduction

Good Afternoon. My name is Mary Diaz, and I am the Director of the Women's Commission for Refugee Women and Children (the Women's Commission). I would like to thank you, Mr. Chairman, and the other members of the Committee for the opportunity to appear before you today to discuss the devastating effects of torture on women victims and the treatment they subsequently receive when seeking refugee status in other countries, including the United States. I will summarize my testimony now, and would request that my written testimony be included in the record.

Founded in 1989 under the auspices of the International Rescue Committee, the Women's Commission serves as an expert resource on issues affecting uprooted women and children around the world. We have sought to improve the lives of refugee women and children through a vigorous and comprehensive program of public education and advocacy. In the past seven years, we have sent over 30 expert delegations to overseas refugee settings to assess the extent to which the protection and service needs of refugee women and children are being met. In addition, we launched a project last year to evaluate the situation of women and children asylum seekers held in detention by the Immigration and Naturalization Service (INS) here in the United States.

Our work has taken us all over the world to talk with refugee women and children and the agencies charged with meeting their protection and service needs. Regardless of the setting, our findings typically reflect a central theme: women and children, who represent approximately 80 percent of the world's total refugee population of almost 50 million, remain the most vulnerable in situations of conflict and persecution. Despite their overwhelming numbers, there is a consistent lack of attention paid to their protection and service needs.

I would like to focus my remarks today on ways the United States, which has consistently been a leader in the protection of refugees, can better address the needs of women who have suffered torture and other human rights abuses. There are some key problems in the asylum and refugee protection systems that need to be addressed in order to ensure that deserving individuals are provided safe haven. To illustrate, I would like to discuss the experiences of three refugee women we have interviewed or whose cases have been brought to our attention, first in the context of the U.S. asylum system and then in overseas refugee settings.

II. The U.S. Asylum System

Hawa Abdi Jama

Hawa Abdi Jama is a twenty-five year old Somali woman. She is a member of the Marehan clan. The Marehan people--including Hawa's father--were afforded special treatment by the longtime former president of Somalia, Mohammed Siad Barre, who was also Marehan. Her father's status as a Marehan and Hawa's own friendship with the President's daughters were well-known in Somalia, including to members of the Hawiye and other clans.

Siad Barre's poor treatment of rival clans and favoritism toward his own Marehan subclan created hostility toward all Marehan civilians. The Somali civil war that erupted in December 1990 was marked by acts of revenge against the Marehan people. Fearing for their safety, Hawa and her mother, two sisters, and one brother fled their home and sought refuge in the Ahmed Guray military camp, which was protected by Somali troops loyal to the government. Her father and two other brothers chose to remain at home, believing that they were innocent of any wrongdoing.

After several days in Ahmed Guray, Hawa and her mother returned home to check on her father and two brothers. As they approached the house, they saw that it had been destroyed. The

first room had been completely looted. The second room was covered in blood. Finally, they discovered the bodies of the two boys and their father, all shot in the head by the Hawiye.

Terrified, Hawa and her mother tried to return to Ahmed Guray. On the way, however, the Hawiye began to shoot at them and the two became separated. Hawa was quickly captured by six men in a car, who forced her to identify her clan membership.

The men pushed her into the car, and one hit her in the stomach with the butt of his gun when she resisted. Another slashed her wrist with his bayonet, while a third struck her. She is permanently scarred from this assault.

The Hawiye soldiers took Hawa to an old military camp under their control where she was detained for fifteen days with thousands of other prisoners. While there, Hawa was continuously tortured. She was often beaten around the head, dragged across the floor, and had her earring ripped from her ear. Her body was wracked with pain and she bled from the terrible abuse she received at the hands of her torturers. She also contracted malaria.

After more than two weeks of torture and humiliation, a young man who had been friendly with her family recognized her and helped her to escape. Over the next three years, Hawa located her family and then came to the United States via Kenya. Hawa's sister, meanwhile, was granted refugee status through the U.S. embassy in Italy and resettled in Atlanta, Georgia.

Hawa arrived at John F. Kennedy Airport on August 23, 1994 and asked for political asylum. Hawa's travails, unfortunately, didn't end there. Despite the compelling nature of Hawa's story and the overwhelming evidence supporting her asylum claim, U.S. immigration officials detained her in the Esmor Immigration Detention Center in Elizabeth, New Jersey.

The INS told Hawa that she would be detained for a couple of weeks. However, she remained in Esmor until the facility was shut down in June 1995, after detainees rioted to protest the inhumane and degrading treatment they had received. When the Women's Commission interviewed Hawa, she reported that she herself had been beaten several times by an Esmor guard. On one occasion, she was so cold she was unable to sleep, so she requested a blanket. The guard told her to put the request in writing. When she asked for a pencil, it was denied.

After the Esmor riot, Hawa was transferred to the York County Prison in Pennsylvania where she was incarcerated for another five months and commingled with criminal inmates, even though she herself had committed no crime. Despite being clinically diagnosed for depression, the INS kept Hawa in detention for a total of 15 months, until her attorney persuaded the INS District Director to release her on medical parole.

Despite the credibility of Hawa's testimony and the fact that her sister had already been accepted for refugee resettlement by the United States, Hawa's application for political asylum was denied by an immigration judge on March 14, 1995. Her appeal is currently pending before the Board of Immigration Appeals.

Carmen Valenzuela

Dr. Carmen Valenzuela is a forty-one year old Guatemalan woman, who worked as a pediatrician and professor of maternal and child health care in her home country until 1990. That year, she was kidnapped, detained, and tortured for eight days by army soldiers.

Carmen was playing softball when the Guatemalan army kidnapped her. She was held in a clandestine prison in the basement of a military building on La Forma Avenue in the heart of Guatemala City. Army officials brutally beat her, breaking her rib with their fists and feet. As

they beat her, they told her, "We are not going to kill you, but you are going to scream for us to kill you." They slowly punctured her legs with wires. During the ordeal, they kept her handcuffed. Her head was hooded, making her fear that she would suffocate. This technique, called "the hood" in Guatemala, consists of tightening a plastic bag around a prisoner's neck to force her to talk.

During her detention, Carmen's captors explained the "need" for torture in Guatemala. They said, "Do you believe, Doctor Valenzuela, that President Cerezo himself doesn't have a security force that does all these things--kidnapping, murders, torture--in order to maintain stability? What we do might be construed as illegal, but we do it precisely in order to control those who are outside the law."

What exactly was Carmen's crime? She believes that her medical care of and advocacy on behalf of poor, displaced women and children on the outskirts of Guatemala City was enough to prompt her mistreatment. When she first publicly revealed her story at a U.S. conference on torture, Carmen stated, "I realized that the diseases afflicting Guatemalans are related not only to their physical maladies but to a myriad of social and economic conditions, in the face of which physicians are impotent."

In some ways, Carmen was one of the lucky ones. While she was missing, her family visited foreign embassies pleading for their intervention. Carmen was finally released, thanks to an intense national and international campaign pressuring the Guatemalan government to free her. Her release, however, was conditioned on her agreeing to give an "official story" to the media and police about her kidnapping. The police told her to state that she had been kidnapped by criminals seeking a ransom, and that if she did not agree to tell the official story, her family would suffer the consequences.

Carmen fled Guatemala within ten hours of her release with the assistance of the German Embassy, which escorted her to the airport and arranged for her departure from the country. Once in the United States, Carmen lived with a family friend until she was finally able to confront her story of torture. It took two years, however, before she was able to articulate publicly the horror she had experienced.

Carmen successfully applied for political asylum. She has spoken out against the injustices experienced in Guatemala and become active in the campaign for human rights and the call for holding accountable those in Guatemala who have committed atrocities against their compatriots. She does this fearing for the safety of her family, which remains in Guatemala, but believing that she can no longer remain silent.

Recommendations to Improve the U.S. Asylum System's Protection of Women Victims of Torture

The stories of abuse, persecution, and torture of Hawa, Carmen, and Fauziya Kasinga, shared in the prior panel today, offer vivid examples of the vulnerability of women trapped by the U.S. political asylum system. Hawa and Fauziya languished in detention for months, until their attorneys successfully advocated for their release. Carmen was fortunate to escape the trauma of U.S. detention, but only because of the widespread publicity her case received and because she already had a valid visa to enter the United States, after which a prominent human rights organization took up her cause.

But the reality for many other women seeking asylum in the United States too often is defined by prolonged detention in county prisons or INS detention centers with inadequate legal representation. We are pleased that the INS finally recognized the inappropriateness of Hawa's and Fauziya's detention. Across the country, there are many other women, however, who

continue to languish in detention, so cut off from the outside world that they have little chance of obtaining adequate counsel, let alone making it into the public eye. The Women's Commission has visited four county prisons in which women have been detained by the INS in the past year and heard the stories of dozens of women who despair of their chances of gaining release from the concrete walls and iron bars that define their lives.

We congratulate you, Mr. Chairman, for recognizing in H.R. 1416 the need to pay special attention to the protection of torture victims seeking asylum in the United States. The bill recognizes that torture survivors deserve protection from further repression. This includes calling for prompt consideration of torture victims' asylum applications to minimize their insecurity and sense of danger and to avoid aggravation of the physical and psychological effects of their torture.

Furthermore, H.R. 1416 mandates that a finding at a U.S. port of entry that an individual suffers from the effects of torture creates a strong presumptive basis for a grant of parole in lieu of detention. We strongly support the notion that detention of individuals with a credible claim to asylum is inappropriate.

In fact, the INS itself has recognized this. In 1992, it implemented a nationwide release policy for asylum seekers. Issued as a memorandum to its field offices under then-INS Commissioner Gene McNary, this program, known as the Asylum Pre-screening Officer (APSO) program, allows for the release of asylum seekers from detention. To qualify for release, an individual must meet several criteria, including having a credible claim to asylum and not posing a flight risk.

Unfortunately, the Women's Commission has found that the APSO program is inconsistently implemented, resulting in the detention of women such as Hawa and Fauziya, who clearly have strong claims to asylum. Often, APSO determinations are not made at all, and even if they are, an individual's release remains purely discretionary on the part of INS District Directors. Moreover, the use of faulty documentation to enter the United States is taken as an indicator that the person poses a flight risk, thus ignoring the fact that many refugees are forced to flee without the required documentation.

In addition to Hawa and Fauziya's cases, we have interviewed many other women deserving release. These include 13 Chinese women who came to the United States on board the *Golden Venture*, some of whom remain in detention almost three years later. It also includes a woman from the Ivory Coast who was pregnant but held in the York County Prison until her eighth month of pregnancy. We talked to a Chinese woman fleeing coercive family planning in her homeland, whose health was seriously affected by an IUD that threatened perforation. The INS refused to release her to her family in New York, choosing instead to remove her from the prison only for surgery and then throwing her back into her cell before she had fully recovered.

The INS, however, is moving toward incorporating the APSO program into regulation, which we hope will lead to more consistent implementation and prompt release of deserving asylum applicants.

We also urge the INS to more fully implement the "gender guidelines" it issued to its asylum officers in May 1995. H.R. 1416 recognizes the unique nature of women's claims by calling for gender-specific training on how to interact with individuals who are victims of rape or other forms of sexual violence. The gender guidelines represent an effort to do just that by instructing INS asylum officers on how to adjudicate women's asylum cases when they are based on gender-related persecution. Fauziya Kasinga's story of female genital mutilation in Togo is a classic case of gender-based persecution. In addition, INS asylum officers must consider the difficulty women often have in articulating their claims, regardless of whether they are based on gender-related persecution.

Before completing my discussion of the asylum system, it is critical to point out that despite the positive reforms called for in H.R. 1416 and the trend toward recognizing the special needs of asylum seekers through the APSO program and gender guidelines, legislative initiatives now moving rapidly in Congress would jeopardize this progress. The Women's Commission is gravely concerned that the "summary exclusion" system contained in the antiterrorism bill and H.R. 2202, the House version of the immigration reform legislation, would fail to identify legitimate asylum claims at U.S. ports of entry, particularly when presented by women. The proposed system would target those using faulty documentation and subject their asylum claims to a cursory, on-the-spot review by a low-level INS officer. The multi-tier review of denials of asylum claims currently available to ensure that legitimate refugees are not denied protection would be eliminated.

Under summary exclusion, an asylum seeker would be forced to articulate her claim when tired, confused, and frightened, possibly without benefit of translation or counsel. It is unrealistic and inhumane to expect a woman to tell her story of rape or sexual violence to a government official--most likely male--under such circumstances. We should not and cannot undermine U.S. leadership in the protection of women refugees and the progress represented by the APSO program and gender guidelines by allowing this system to be implemented. The Senate recognized the dangers posed by this proposal last week when it passed the "Leahy/Dewine Amendment" to S. 1664, the Senate version of immigration reform legislation, to override the summary exclusion provision included in the antiterrorism bill.

The proposed immigration legislation, moreover, calls for mandatory detention of asylum seekers even if they succeed in overcoming the harsh evidentiary hurdles created by summary exclusion. As the stories we have heard here today illustrate, detention often exacerbates the trauma experienced by torture victims. We must ensure appropriate and humane treatment of true refugees and explore alternatives to detention.

III. The Overseas Refugee Protection System

Refugee women who have been victims of torture who make it to the United States to ask for protection are actually few in number compared to the number of women who remain internally displaced within their home countries or end up languishing in countries of first asylum. Following is the story of a young woman who experienced torture, but whose needs were disregarded by the international refugee protection system for almost three years.

Gohar (pseudonym)

Gohar, a sixteen year old Kurd, was arrested in Iran in 1984 for her political activities. She spent three years in the Kamyaran Prison where she was tortured and interrogated repeatedly. While in prison, she spent a week in solitary confinement. She was constantly threatened with rape, a threat she took seriously since she knew many women in prison who had been raped.

For six months, Gohar remained in a tiny cell with 16 other women. There were no windows or lights in the cell. Gohar's basic needs were denied. She was poorly fed. As a punishment, the authorities would deny her access to a toilet. No sanitary napkins were provided and she developed vaginal and fungal infections. She was only allowed to bathe once every two weeks and received no medical attention.

Gohar was transferred to three other prisons in the course of her confinement. She became seriously ill as a result of the horrendous living conditions.

Gohar was constantly interrogated. The sessions were held in rooms that were so hot that she frequently fainted. In Sanandaj Prison, the authorities would place Gohar's mother in the cell next to hers and tell Gohar that they would arrest her mother if she did not confess. They tried to force Gohar to sign a confession and renounce her political beliefs. When she refused, they brought her father to the prison to beat her in front of the head of the prison and the public prosecutor. Her whole face was covered in blood.

Gohar was finally released from prison but fled Iran with her husband after her colleague was arrested. Gohar and her husband presented her case to the United Nations High Commissioner for Refugees (UNHCR) in Turkey. Even though their case was based on her experience, UNHCR designated her husband as the principle applicant. As a result, their case was initially rejected. It took 15 months before UNHCR acknowledged its mistake and Gohar and her husband were accepted for resettlement in Canada. It then took another 15 months before they were actually processed and moved to Canada. During those months, the Iranian authorities threatened and harassed her family, demanding that they reveal Gohar's address in Turkey. Gohar lived in constant fear of assassination or deportation back to Iran, a fate experienced by dozens of other Iranian refugees living in Turkey.

Recommendations to Improve Overseas Refugee Protection and Processing for Women Victims of Torture

While refugee situations present problems to all refugees, women are particularly vulnerable. Refugee women have many needs that are not being met in overseas settings. While progress has been made in at least recognizing the special needs of women, thanks largely to the 1991 release of the UNHCR Guidelines on the Protection of Refugee Women, little has been done at the programmatic level to ensure that the trauma of human rights abuses such as torture are not further exacerbated by the displacement experience.

UNHCR, with the support of the United States, should continue and expand counseling and mental health programs for refugee women, particularly for victims of torture, rape, and other physical and sexual abuse. In former Yugoslavia, for example, such programs have been set up but threatened by a withdrawal of funding, despite the tremendous need for such services in the community. The involvement of refugee women in the design and implementation of these programs has enhanced the success of the effort.

Refugee resettlement should remain an option for individuals who can never return home. The refugee status determination system must include women as well as men and recognize the difficulty women may have in presenting their claims, particularly if they are founded on gender-based persecution. As in Gohar's case, women who arrive in a refugee setting as part of a family unit are often not interviewed, and their male relatives may not raise issues relevant to the female family member because they are unaware or ashamed of the details.

Even if interviewed, women often have difficulty speaking about their experiences, requiring intensive counseling and assistance before they can articulate their story. The UNHCR Guidelines point out that female victims of sexual torture, including rape, find it difficult to talk about their experience, because in many cultures rape and sexual abuse are viewed as a failure on the part of the woman to preserve her marital dignity or virginity.

Gender sensitivity training of UNHCR and nongovernmental organization (NGO) staff serving refugees is essential. UNHCR has implemented a training program, known as People-Oriented Planning, which sensitizes UNHCR and NGO staff about the special issues confronting refugee women. Recruiting and training female interviewers and interpreters can also help alleviate these problems. H.R. 1416 supports taking special measures to ensure that the difficulties faced by women victims of torture are addressed in processing and protection efforts.

The United States can further enhance the protection of refugee women who have been victims of torture and gender-based violence by using its resettlement program to offer women a way out of the traumatic situations in which they often find themselves. We congratulate you, Mr. Chairman, for preserving the U.S. resettlement system's ability to meet the protection needs of refugees when you successfully fought for the elimination of the statutory cap on annual admissions originally contained in H.R. 2202.

Some governments, including those of the United States, Canada, Australia, and New Zealand, have adopted "Women at Risk" programs to resettle those refugee women in critical need, such as those who have experienced torture, rape, or other trauma, but who do not otherwise meet existing criteria for admissibility. These women have generally experienced severe trauma and are living in circumstances in which their traditional support systems have broken down. Yet, they may have no relatives in a third country, no knowledge of the language or other transferable skills, and may demonstrate a level of need that makes private agencies unwilling to risk the financial commitment of sponsorship.

In response to the difficulties faced by such women, UNHCR requested that countries establish a special program for their admission or introduce a process within the normal refugee program to permit additional admissions to cover this need. UNHCR identifies women at risk who are in need of resettlement and requests spaces from resettlement countries.

Although the United States has incorporated the Women at Risk program into its "Special Procedures for Vulnerable Groups," it has not broadly implemented it. Because the United States increasingly relies on UNHCR resettlement referrals and many UNHCR staff are unaware of the program's existence, few women have benefited from it. Moreover, the refugee communities themselves are unaware of the program. Finally, as previously discussed, many refugee women are traditionally unable or unwilling to speak to male interviewers and interpreters, who represent the majority of such staff.

It should be pointed out that the U.S. program does allow embassy personnel to identify women at risk. In certain instances, NGO personnel have also been able to informally refer persons to the UNHCR or embassies for processing. Unfortunately, there have been virtually no embassy referrals and NGO participation is not officially sanctioned in the U.S. priorities for processing. As a result, the resettlement program remains dependent on the UNHCR system for referring refugees for resettlement and too often ignores the recommendations of NGOs, even though they are frequently best positioned to identify individuals needing resettlement.

For example, the International Rescue Committee (IRC) has brought to our attention the case of a 30 year old Bosnian woman and her 18 month old baby who are currently residing in Spain. She lived in Mostar until 1993, when she was arrested and taken to a concentration camp called Heliodrom. She was pregnant at the time and was beaten and harassed by Croatian soldiers while in the camp. After her release, she gave birth to her baby but then was hit by a shell. She was taken by "Medivac" to Spain, where she does not have permanent residence or a work permit. IRC referred her case to the UNHCR, which failed to give her a strong referral, and her case was therefore rejected by the INS for U.S. resettlement.

In order to assist more women victims of torture and their children, the United States needs to address these problems and implement the Women at Risk program more consistently. UNHCR and State Department staff should be made aware of the program's existence and trained to know how to use it.

Finally, in the case of the former Yugoslavia, the State Department and UNHCR should be more proactive in referring cases of women at risk who are currently living in Western European

countries. For the past three years, UNHCR has not considered these individuals for resettlement. Refugees of all ethnic backgrounds, however, have been victims of rape and torture. M. Cherif Bassiouni and Marcia McCormick report in a recent paper titled "Sexual Violence: An Invisible Weapon of War in the Former Yugoslavia," published by the International Human Rights Law Institute of DePaul University, that as many as 20,000 women may have been raped. In some cases, men and boys of their own villages and close relatives were forced to rape them or to watch them being raped. For some of these women with strong persecution claims, resettlement in the United States under the Women at Risk program is their only hope.

IV. Conclusion

In conclusion, Mr. Chairman, we agree with the underlying philosophy of H.R. 1416 that the United States has a moral responsibility to show leadership in the protection of asylum seekers and refugees who have suffered the effects of torture. As the bill recognizes, "By acting to heal the survivors of torture and protect their families, the United States can move to defeat the actions of torturers." We urge the Committee to continue to use its oversight authority of U.S. administered or funded refugee programs to ensure that the special needs of refugee women are met.

On behalf of the Women's Commission, I would like to thank you again for considering our testimony. I will be happy to answer any questions you may have.

PREPARED STATEMENT OF ROBERT JOBE
LAW OFFICE OF ROBERT B. JOBE
BEFORE THE SUBCOMMITTEE ON INTERNATIONAL
OPERATIONS AND HUMAN RIGHTS OF THE
HOUSE COMMITTEE ON INTERNATIONAL RELATIONS

MAY 8, 1996

Mr. Chairman and members of the Sub-Committee:

Thank you for inviting me to speak with you today regarding the treatment of torture victims in the immigration process.

In recent years, there has been a shocking but unmistakable trend in our asylum jurisprudence. Increasingly, the Board of Immigration Appeals and individual immigration judges are denying asylum to individuals who have suffered arrest and brutal torture at the hands of their governments' security forces.¹ While many of these rulings have been reversed in the Ninth Circuit,² they remain law in virtually every other jurisdiction and represent a shameful chapter in our otherwise laudable history of refugee protection.

Although the published cases involve Indian and Sri Lankan nationals, the legal principle set forth in those cases -- that victims of official state torture are not necessarily deserving of protection³ -- has been applied to torture survivors from many nations.

One of the most cited cases is Matter of R-, Int. Dec. #3195 (BIA 1992), which concerned a young Sikh man who provided food and shelter to armed militants fighting to establish an independent Sikh state. The Indian security forces arrested him

1. The Board purports to base these decisions on INS v. Elias-Zacarias, 112 C.Ct. 812 (1992), where the Supreme Court held that an applicant for asylum must provide some evidence, direct or circumstantial, that the persecution he faces is on account of race, religion, nationality, membership in a particular social group, or political opinion.
2. See, Singh v. Ilchert, 69 F.3d 375 (9th Cir. 1995); Singh v. Ilchert, 63 F.3d 1501 (9th Cir. 1995); and Singh v. Moschorak, 53 F.3d 1031 (9th Cir. 1995).
3. See, Karen Musalo, "Irreconcilable Differences? Divorcing Refugee Protections From Human Rights Norms," 15 Michigan Journal of International Law 1179, Vol. 4, Summer 1991.

"as a suspected militant" and subjected him to what the Board characterized as "brutal physical abuse."

In a disgraceful decision, the Board rejected his asylum claim on the grounds that there was "no persuasive evidence" that his torturers had been motivated by his perceived political opinion. According to the Board, his torture was simply a "reaction against those thought - rightly or wrongly - to be militants seeking the violent overthrow of the government." At another point, the Board suggested that the purpose of the torture was "to extract information about Sikh militants," rather than to harm him for his political opinion.

Since it issued its decision in Matter of R-, the Board has blindly and tenaciously adhered to it. In fact, in many cases, the Board has refused to find a political motive for an asylum applicant's torture where there was any other alternative explanation. In the process, it has denied asylum to hundreds of torture victims, including those who were brutalized for the peaceful expression of a political opinion.

One such applicant, Hardev Singh,⁴ was arrested and brutally tortured on four separate occasions: first, for organizing a peaceful march to view the damage inflicted by the Indian army on a Sikh temple; then for carrying posters and black arm bands for a demonstration. His third arrest, in June 1989, was for organizing a conference on the killing of Sikh activists, and his final detention came one evening in 1990 after he had put up a series of posters calling for a strike and demanding that the Indian government account for those who had disappeared while in detention. During these detentions, he was brutally beaten, subjected to electric shock torture, and had hot molten wax poured on his feet.

Despite the quintessentially political nature of these activities, Mr. Singh was denied asylum by both the immigration judge and the BIA. Both ruled that he had failed to establish with the requisite clarity that he had been targeted because of his political opinion rather than as part of an effort to stamp out militancy.

In another case, Matter of T-, Int. Dec. 3187 (BIA 1992), the Board rejected the asylum claim of a Sri Lankan Tamil suspected of supporting the LTTE's separatist movement. Before fleeing Sri Lanka, the applicant had occasionally provided food and cigarettes to members of the LTTE who visited his grocery store and demanded that he provide them with supplies. He was arrested by the Indian Peacekeeping Forces, detained for two

4. See, Singh v. Moschorak, 53 F.3d 1031 (9th Cir. 1995).

weeks, and accused of assisting the LTTE. During the course of his detention, he "was severely beaten . . . suffering a broken nose and lacerations to his body." When the opportunity arose, he fled to another region of Sri Lanka and then to the United States.

In rejecting his asylum claim, the Board held that the detention and beating could not constitute political persecution, because the responsible parties were generally sympathetic to Tamil political demands, although they opposed the LTTE's violent separatist campaign. It ruled that his brutal mistreatment was the result of his suspected support for the LTTE, and therefore simply an act of "revenge" which is "in the nature of a civil war . . . [and] does not amount to persecution."

In another particularly disturbing decision, the Board rejected the claim of a Nigerian man who had been arrested and subjected to electric shock torture for delivering a speech at a mass demonstration against the military government. The Board held that he did not qualify for asylum, because the demonstration had gotten out of hand, property had been destroyed and his arrest and torture therefore could not have been politically motivated.

These decisions compel the conclusion that there is something seriously wrong with our system of refugee protection. The Congress should protect torture victims from the ill effects of these decisions by taking the following steps:

1. The Congress must guard against efforts to "limit judicial review of administrative denials of asylum. Absent such review, none of the torture victims I mentioned today would have obtained protection from their persecutors.
2. Repeal the summary exclusion provision that recently became law as part of the Anti-terrorism and Effective Death Penalty Act of 1996 (AEDPA). Under that provision, a refugee who arrives without proper documents will be summarily excluded if he fails to establish "a significant possibility" that he qualifies for asylum. Although intended exclude persons who have no reason to be afraid, the provision will also be applied to torture victims who are unable, under the case law I have described, to establish that their suffering was politically motivated. Only by allowing those individuals a hearing before an immigration judge and eventual access to a federal court that has the power to reverse the Board's precedent can we ensure that justice will be done for them.

3. Adopt legislation to implement Article 3 of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 23 I.L.M. 1027 (1984), which would prohibit deportation of an alien to a state where:

there are substantial grounds for believing that he would be in danger of being subjected to torture.

The effect of such implementing legislation would be to overrule the line of cases that I have described.

4. Create a legal presumption that persecutory actions by a government against an individual are politically motivated unless the individual has engaged in criminal activity that would provide a legitimate basis that governmental action.⁵

It is unacceptable that our country is returning individuals to countries where they are going to be brutally tortured on the basis of hair-splitting distinctions. The Congress should take immediate action to ensure that this practice is stopped.

5. See, Singh v. Ilchert, 63 F.3d 1501 (9th Cir. 1995).

PREPARED STATEMENT OF DANIEL WOLF
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BEFORE THE SUBCOMMITTEE ON INTERNATIONAL
OPERATIONS AND HUMAN RIGHTS OF THE
HOUSE COMMITTEE ON INTERNATIONAL AFFAIRS

MAY 8, 1996

Mr. Chairman and members of the subcommittee: My views concerning how our government can best assist victims of torture have been shaped both by my experience as an attorney in the Office of the Legal Adviser of the Department of State and my representation of torture victims while in private practice. For the last five years, I have been counsel to Scott J. Nelson and James E. Smrkovski, both American citizens and both victims of torture at the hands of officials of the Kingdom of Saudi Arabia. Their stories graphically illustrate the unwillingness of our State Department to protect the rights of American citizens, even when those citizens become victims of the most brutal crimes against humanity.

Mr. Smrkovski, who is here today, was arrested without charge by Saudi officials in August 1985 when he was working for Saudia Airlines in Al-Khabar, Saudi Arabia. Accused of alcohol and gun smuggling, Mr. Smrkovski was severely and repeatedly beaten and subjected to electric shock torture. When his tormentors discovered a picture of his son wearing a Star of David, they became convinced he was an Israeli spy and extracted six of his toenails with a pair of pliers. For most of his 454 days in detention, Mr. Smrkovski was held in solitary confinement in a cell the size of a closet.

Like Mr. Smrkovski, Scott Nelson was arrested and detained without charge in 1984 after having blown the whistle on a health and safety hazard at the King Faisal Hospital in Riyadh, where he was employed as a monitoring systems engineer. During the 39 days in which he was detained in a cell infested with rats and swarms of insects, Saudi officials whipped the soles of his feet with a bamboo cane and beat him so severely that he lost consciousness. At one point, they strapped a rod tightly behind Mr. Nelson's knees and forced him to do deep knee bends until both knees snapped and he fell to the floor in agony. As a result of this torture, an administrative law judge has determined that Mr. Nelson is permanently disabled.

As difficult as it has been for Mr. Smrkovski and Mr. Nelson to comprehend what happened to them in Saudi Arabia, it has been even more difficult for them to understand why the State

Department has never taken any action to hold Saudi Arabia accountable for the barbaric conduct of its officials.

During his imprisonment, Mr. Smrkovski managed to slip a letter to a U.S. consular officer detailing the torture he had suffered. Reflecting the Department's principal concern when faced with such allegations, the U.S. Consulate in Riyadh sent a cable to the Department stating that were these allegations to become public it could cause embarrassment to our Saudi allies. After his release from detention in November 1986, Mr. Smrkovski sent letters to President Reagan, Vice President Bush and Secretary Schultz requesting that the United States protest his torture to the Saudi Government. The Department, however, rejected Mr. Smrkovski's request, stating that it could not raise the issue of his torture with the Saudis, because he had failed to make such a request whilst he was imprisoned, which, of course, would have been foolhardy to say the least.

Like Mr. Smrkovski, Mr. Nelson asked the Department to take up his claim with the Saudis in November 1984, just weeks after his release from detention. In legal terms, Mr. Nelson was asking the Department to "espouse" his claim against the Saudis, which would, in essence, transform his claim into a claim of the United States against Saudi Arabia. The Department refused to do so, offering only to assist Mr. Nelson in obtaining Saudi counsel so that he could bring his case in Saudi Arabia. Unwilling to return to his torturers, Mr. Nelson, instead, brought suit against Saudi Arabia in the United States under the Foreign Sovereign Immunities Act. In February 1991, a unanimous panel of the Eleventh Circuit held that Saudi Arabia was subject to suit in the United States for torturing an American citizen it had come to this country to recruit.

At this point, the State Department became actively involved in the Nelson case for the first time. Bowing to an intense lobbying effort by the Saudis and their U.S. counsel, the Department filed briefs first in the Eleventh Circuit and then in the Supreme Court in which it warned of "major foreign policy ramifications" should the panel's decision be allowed to stand. In April 1993, the Supreme Court accepted the Department's arguments and held that U.S. courts lacked jurisdiction to hear Mr. Nelson's claim.

Following the Supreme Court's decision, we renewed our request that the Department espouse Mr. Nelson's and Mr. Smrkovski's claims. Despite the fact that this request had been pending since 1984, the Department delayed for another year and a half before informing Mr. Nelson and Mr. Smrkovski that it could do nothing to help them because they had not exhausted "local remedies" in Saudi Arabia. In other words, the Department was informing Mr. Nelson and Mr. Smrkovski that if they wanted any relief, they would have to pursue it in an Islamic Holy Court in Saudi Arabia where the testimony of a woman is worth half that

of a man, a non-Muslim may not testify against a Muslim, two eyewitnesses are required to substantiate a charge of torture, and judges in political cases routinely defer to the wishes of the King and his council of ministers. Even if Mr. Nelson and Mr. Smrkovski could overcome these obstacles and obtain a judgment in their favor, their recovery would be limited to the diyah (literally "blood money") which in the case of a fatal injury is the equivalent of 100 camels (or approximately \$32,000). Moreover, as non-Muslims, Mr. Nelson and Mr. Smrkovski would only be entitled to half the recovery that would be available to Muslims.

As the experiences of Mr. Nelson and Mr. Smrkovski demonstrate, the State Department cannot be relied upon to protect the rights of American torture victims. As former State Department legal adviser Abraham D. Sofaer testified two years ago in hearings before the Subcommittee on Administrative Law of the Senate Committee on the Judiciary:

[T]he Department's decision with respect to espousal is likely to be influenced, not only by the merits of the case, but by the Department's concern for offending a foreign state and creating a potential irritant in its dealings with that state. This is particularly likely to occur where the claimant alleges that espousal is necessary because local remedies in the state that is alleged to have injured him are ineffective and unavailable.

Those who make espousal decisions at the Department of State are bureaucrats, not independent jurists. They will readily admit that they are ill equipped to evaluate the merits of claims alleging gross abuses of human rights or the ability of a foreign state's judiciary to provide meaningful redress for such claims. The decision to espouse the claim of an American torture victim at the risk of offending a sovereign state with whom we have friendly relations takes a level of diplomatic courage that does not exist within the Department of State. Moreover, even if the Department were to take up such a claim, it is not likely to exert the level of pressure necessary to obtain a just resolution.

So long as the only avenue of redress for American torture victims is to petition the Department of State to espouse their claims, foreign states will continue to escape accountability when they perpetrate the most egregious violations of human rights upon our citizens. When the anti-terrorism bill was initially passed by the House of Representatives last month, it included a provision that would have amended the Foreign Sovereign Immunities Act to permit American citizens to sue

foreign states when those states torture American citizens. Unfortunately, at the administration's insistence, the bill was reconciled in conference to allow suit only against those states that are on the State Department's terrorism list -- currently, Cuba, Iraq, Iran, Libya, North Korea, Sudan and Syria. There is, however, no principled reason for providing redress in our courts for American citizens who are tortured by officials of foreign states on the Department's list, but denying such redress to Americans who are tortured by officials of other countries. So long as those countries do not provide adequate and available remedies for American torture victims in their courts, those victims should be able to seek redress in our courts. Accordingly, I would urge this subcommittee to support legislation that would amend the Foreign Sovereign Immunities Act to provide such redress.

Testimony of

Douglas A. Johnson
Executive Director, The Center for Victims of Torture

May 8, 1996

Before the
House Committee on International Relations
Subcommittee on International Operations and Human Rights

The Center for Victims of Torture was founded in 1985 as an independent, non-profit organization after careful study by a special Governor's Task Force. The first organization of its kind in the United States, the Center remains the only staffed, comprehensive treatment program in this country for torture survivors and their families. I have served as its Executive Director since 1988.

The Center has pioneered a multi-disciplinary treatment model that enables torture survivors to recover from their physical, emotional and spiritual wounds. Healing strategies are carefully designed to meet the needs of individual clients, and involve the professions of medicine, psychiatry, psychology, social work and nursing.

The staff at the Center stabilizes emergency psychological and medical situations; ensures safe and stable living conditions; provides medical care, psychiatric interventions and psychological counseling; and helps clients build new lives in America.

The Center assists clients in obtaining political asylum through a cooperative arrangement with attorneys who provide services on a pro bono basis; its staff provides documentation and expert testimony as part of the process. More than 150 community volunteers augment the work of the organization's professional staff.

Torture survivors are referred to the Center from a variety of sources, including religious and refugee resettlement agencies, human rights and international relief organizations, immigration attorneys, public health care providers, and other clients. Since moving into a newly-renovated facility in 1991, the Center's capacity has increased to 150 clients per year.

In its first decade, the Center has provided direct and intensive care to nearly 400 survivors of government-inflicted torture (twenty percent of whom were tortured as children), and consultation and referral services for hundreds more. They were brutalized by governments of the left and right, in roughly equal numbers. And they have come to the Center from more than 40 nations, from all regions of the world:

- 46% from Africa, with a high percentage from Ethiopia
- 27% from South and Southeast Asia
- 14% from Latin America
- 7% from the Middle East
- 3% from Eastern Europe
- 3% are Americans who were tortured abroad

The Center is almost completely privately funded through grants and donations by concerned Americans. We believe our independent status is important to survivors who are, after all, victims of governmental abuse, and are justifiably concerned about maintaining their privacy. But the lack of Federal or State funding for our work is not desirable. We are working with a problem created by governments. And Article 14 of the Convention Against Torture requires governments to provide care and rehabilitation to torture survivors.

Most important, the total reliance on private support has meant that we are a very small agency, and that few of our potential colleagues in the U.S. have gained access to the

resources of the Center. That means that we always have a waiting list of torture victims very much in need of care, even though we do no outreach directly to survivors.

Based on what we know about immigration patterns over the past several decades, we believe there are ten to twelve thousand survivors of torture living in Minnesota--and as many as four hundred thousand now residing in the United States. The U.N. Special Rapporteur on Torture reports 72 governments using torture in 1995. It is hard to estimate how extensive is the number of survivors, or their affected family members. But with so few resources at our disposal, we remain a drop in the bucket of what is needed to help these survivors heal from their wounds.

From a humanitarian point of view, this is alarming. But I hope to convince you today that this situation also runs counter to the strategic interests of the United States and other countries seeking to promote the establishment and growth of democratic cultures worldwide.

Purpose of torture

Over the past decade, we've listened to hundreds of stories from survivors who gave information under torture, only to be told that their torturers already had the information. We've come to understand that the commonly held view that torture's purpose is to extract information or force a confession is simply wrong. Getting information is merely a way to demonstrate to the victim how helpless he or she is in the face of new and powerful torture techniques.

What we have learned is that torture's purpose is to

- eliminate particular leaders, usually from the grass roots, to prevent them from exercising their influence in the community;
- create a climate of fear in those communities to discourage political opposition and activism;
- produce a culture of apathy where small groups of powerful people and interests can wield enormous influence on the shape of society, for generations to come.

Traditional views and attitudes about torture have focused on the impact on the individual. Paradoxically, as we learn more about the impact of torture on the individual, we realize that we must look at torture and other egregious human rights atrocities as intentional culture transforming events. Clinical research indicates that, not only do the survivors of the Holocaust remain symptomatic for their entire lives, but their children and even grandchildren have higher rates of clinical depression and suicide than the population at large. Trauma of this magnitude passes from generation to generation.

Once we adopt this trauma perspective, the conflicts in places like Bosnia and Rwanda can be seen as examples of what can happen when repression and atrocity are not addressed and healed. They leave a legacy of fear that is highly manipulable by repressive forces, to generate spirals of violence and repression in the future. Only healing can help break this cycle of violence and vengeance.

Legal paradigms have dominated our notions of how to prevent torture: documenting facts, comparing these facts to established and accepted norms, and, where possible but rarely accomplished, bringing perpetrators to justice. This model has had some notable successes, perhaps most strikingly in the development of human rights organizations working on this model throughout the world. The idea of human rights--and the protection from such atrocities as torture--has never been more broadly disseminated than it is today.

Yet we do not feel more secure. Nor can the major human rights monitoring organizations assure us that torture has diminished. Quite the contrary. Places like Bosnia, Rwanda, Liberia, Guatemala, Iraq, and elsewhere have burned into our consciousness a sense of atrocity taken to higher and higher levels.

My father taught me an old adage that took me years to understand: "When your only tool is a hammer, every problem looks like a nail." We need new tools--new paradigms of thinking--so we can look at the problem differently, and perhaps, more effectively.

The issues are at once more subtle and more hopeful when the focus of attention shifts from the perpetrators to the victims of human rights abuses. Although every effort should be made to prosecute perpetrators, this may not be politically feasible until the broader community understands what happened to the victims and why. How do we achieve that understanding? One important vehicle is addressing the needs of survivors directly, through the creation of centers and programs to help them heal. By working directly with survivors, health care workers, community volunteers, and public officials can learn what damage was wrought by repression--and how much potential can be lost unless we act with urgency.

We must begin by understanding that victims are tactical targets. Governments invest in the infrastructure of repression: recruiting and training torturers, maintaining systems of secrecy, and other, often major, logistical operations. They make this investment in order to destroy people that they fear. Their intention is to destroy the generation of leadership on the grassroots level, where new ideas emerge and where social change occurs. If creating victims is that important to the purposes of repression, the recovery of the leadership stolen by repression is an urgent task of those wishing to create democratic cultures. We have seen from our own clients how their creative potential and capacities can be unleashed after care is available to them.

Fear unaddressed holds the community's imagination and discourages civic participation. Of sixty million people in Turkey, for example, only one million participate in any form of civic organization, according to a government human rights agency. The reason is fear of involvement. But just as the torture of one person sends ripples of fear throughout the entire community, so can that leader's recovery send waves of hope along the same paths. And communities banding together to provide care and support can recover their confidence in taking risks for others.

In some repressive situations, the agreement of governments to permit a treatment center for survivors is an important sign of change. We must be ready to support those signs wherever they occur, as soon as the opportunity permits.

Needed remedies:

The United States has a unique opportunity and responsibility to lead renewed efforts to stop torture. Both the Bush and Clinton Administrations focused American leadership at the World Conference on Human Rights on efforts against torture; they both believed that work against torture would build consensus in the international community. But we must move more boldly so that vision is not relegated to a tactical position for a conference. We need a renewed strategy to bring attention and consensus to the work against torture. We propose that the strategy be based on a paradigm of healing, focused on the needs of survivors. These are the essential elements:

- The first rule of health care is "Do no harm." It is a good place to begin. During all my years living and working in Latin America, and while visiting places like Turkey, Africa, and India, I have been repeatedly asked why the U.S. trains torturers. It is the question that makes me feel most deeply ashamed. The widely held perception that it occurs does much to weaken America's credibility with grass-roots leaders and activists, precisely those most vulnerable to torture in their own countries.
 - Strengthen policy against American involvement in acts of torture, both physical and psychological, either directly or through training, under all circumstances.
 - Stop all exports of any form of torture equipment. Licensing should be established only to prohibit it, not regulate it.
 - Publicize American policy aggressively throughout all parts of our government, including covert operational units, as well as abroad.
- Highlight our purposes by protecting torture victims from further traumatization through
 - Early identification and protection in refugee camps and refugee situations.
 - Full access and priority to the political asylum process; consider torture an ipso facto basis of proving persecution.
 - Training of State Department officials, political asylum officers, refugee workers and others on identification of the signs and symptoms of torture, and measures to be taken to support and protect them.
 - Reinforce the role and budget of the human rights office in the State Department to monitor trials and human rights situations, particularly those involving torture--or those against treatment centers for torture survivors.
- Promote the healing of survivors, their families, and their communities.
 - Support the creation and building of treatment centers for torture survivors in countries of ongoing or recent repression.

- Support the development of new treatment centers in the U.S. and support existing centers.
- Encourage U.S. policy makers to visit and watch over emerging treatment centers, providing some level of protection through active monitoring and continuing interest.
- Build key institutional mechanisms, such as
 - Develop the UN Voluntary Fund for Victims of Torture into a more powerful institutional force against torture:
 - build up its revenues sufficient to support major treatment programs and take initiative in emerging areas of need;
 - encourage other nations to provide resources to the Fund on a level commensurate with the magnitude and urgency of the task.
 - Provide support to the UN Special Rapporteurs on Torture, Forced Disappearances, Arbitrary Executions and other instruments of the UN Human Right Commission:
 - Funding for travel;
 - Translation services for reports;
 - Succund junior political officers and other staff for support.
 - Engage all American governmental units responsible for refugees, human rights, and related fields, both domestic and international, to learn about the long term effects of torture, and begin developing strategies to aid and protect survivors. At a minimum, this should begin with a study in the U.S. to understand the effects of torture on our own communities, where valuable leadership of refugees, asylees, and other immigrants has been stolen by repression.

We are calling for a vigorous strategy of leadership from the United States to end torture. We propose putting the needs of victims of torture onto center stage as a valuable learning device about the purposes and effects of repression, and to create a new way of thinking about how we can work against those effects. This is the leadership we see behind the Torture Victims Relief Act of 1995 (H.R. 1416). For this leadership, we are deeply indebted to Chairman Christopher Smith and Congressman Tom Lantos, as well as Senators Arlen Specter and Paul Wellstone, who have introduced parallel legislation, The Comprehensive Torture Victims Relief Act (S. 1058), in the U.S. Senate.

We believe the rewards of this approach for the American people are important. We gain a sense of defending the fundamental values of our culture and our belief in others. We recover important leadership, thought to be lost, that can work in partnership with us to create democratic societies throughout the world. And, by exploring a new paradigm of action, we open ourselves to new strategies and increased effectiveness in our efforts to halt torture.

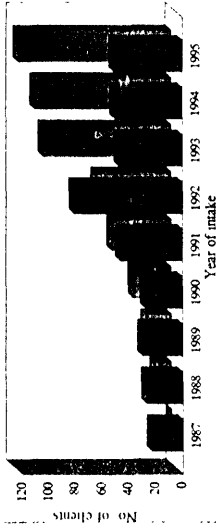
THE CENTER FOR VICTIMS OF TORTURE
Survivors of Torture Served by CVT in Program Year

REGION OF ORIGIN:	1987	1988	1989	1990	1991	1992	1993	1994	1995	Percentage
Asia & Southeast Asia	15	4	5	1	16	41	9	11	3	27%
Africa	1	11	11	17	15	28	33	31	38	48%
Eastern Europe	1	0	3	0	1	2	0	3	4	4%
Latin America	3	5	4	7	13	6	3	4	3	13%
Middle East	2	4	6	1	1	4	1	1	3	6%
U.S. Citizen	1	3	1	2	0	0	1	0	0	2%
New Clients Admitted	23	27	30	28	46	81	47	50	51	
Continuing Clients	0	12	19	28	44	56	96	102	115	100%
Annual Client Load	23	39	49	56	90	137	143	152	166	
Consultations & Referrals:	35	47	46	25	19	30	51	102	102	
Total survivors served (annually)	58	86	95	81	109	167	194	254	268	
Total survivors served (cumulative)	58	132	208	261	326	437	535	687	840	

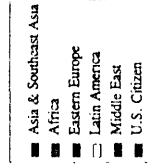
Victims of torture by foreign governments admitted to multidisciplinary program. Survivors admitted in prior years, receiving services in new program year. Referrals provided for survivors unable to come to the Center, or not appropriate to its treatment resources. Consultations provided to other care providers in support of torture survivors living in other communities.

New Clients:
Continuing clients:
Consultation & referrals:

CVT Annual Client Load



Regions of Origin
Clients in Program, 1987-1995



The Center for Victims of Torture
 1995 CLIENT DEMOGRAPHIC INFORMATION
 A Periodic Survey of Survivors Entering the Program

During 1995, The Center for Victims of Torture admitted 51 survivors of torture into its multidisciplinary treatment program. This data summarizes demographic information about the group of new clients only. Another 115 survivors admitted in prior years continued their treatment programs at the CVT during 1995.

AREA OF ORIGIN	No. of Persons	%	No. of Transfers	AGE	
Asia & Southeast Asia	3	6%	3	18 or under	7
Africa	38	75%	6	19 to 24	8%
Eastern Europe	4	8%	3	25 to 30	13
Latin America	3	6%	1	31 to 40	25%
Middle East	3	6%	3	41 to 50	29%
U.S. Citizen	0	0%	0	51 to 60	22%
Total	51		16	over 60	0%

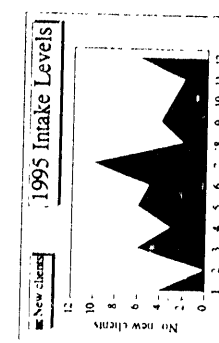
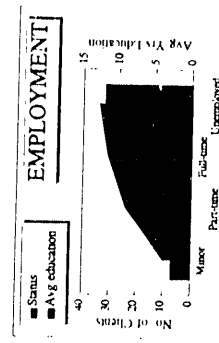
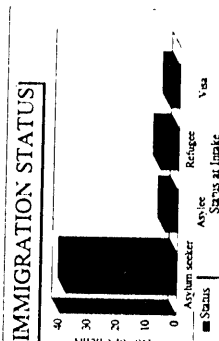
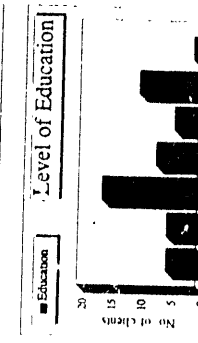
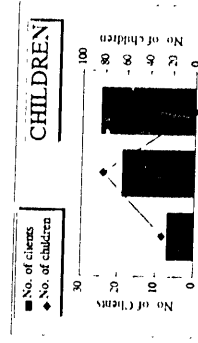
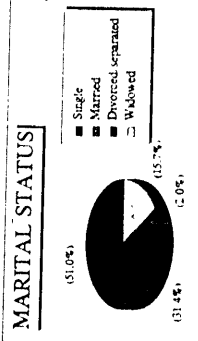
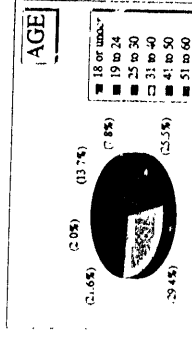
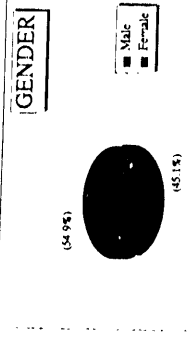
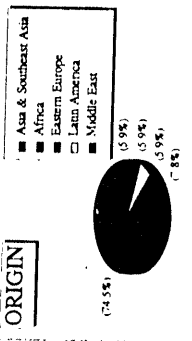
MARITAL STATUS	Average Age	GENDER	
Single	26	51%	Male
Married	16	31%	Female
Divorced/separated	1	2%	
Widowed	8	16%	

CHILDREN	No. of children	Average Age	EDUCATIONAL LEVEL AT PROGRAM ENTRY
Living in U.S.	7	15.73%	More than 16 years
Living abroad	19	37.25%	16 years
No Children	25	49.02%	13 to 15 years
Total			12 years
			9 to 11 years
			Less than 8 years
			No formal education
			No information

STATUS AT TIME OF PROGRAM ENTRY	Average Age	EDUCATIONAL LEVEL AT PROGRAM ENTRY
Student (under age 18)	7	14%
Employed part-time	3	6%
Employed full-time	2	18%
Unemployed	2	63%
No information	0	0%

STATUS AT TIME OF PROGRAM ENTRY	Average Age	EDUCATIONAL LEVEL AT PROGRAM ENTRY
Asylum seekers	3.7	75%
Political Asylees	9.0	18%
Refugees	11.6	12%
Student/returnees visas	12.8	6%
Immigrants	0	0%
Permanent residents	0	0%
U.S. citizens	0	0%

The Center for Victims of Torture
1995 CLIENT DEMOGRAPHIC INFORMATION





FACT SHEET

- WHAT:** The Center for Victims of Torture is a private, non-profit organization which was founded in 1985 to provide direct care to survivors of politically motivated torture and members of their families. The first organization of its kind in the U.S., and one of the largest worldwide, the Center has pioneered a comprehensive assessment and care program which is unique in this country. In recent years the Center has expanded its work to include research, training and public policy initiatives designed to create new resources for torture survivors worldwide. The Center has a 1996 operating budget of \$1.1 million.
- WHO:** As many as 400,000 victims of torture may now live in the United States, with 10,000 or more residing in Minnesota alone. The Center's clients have come from throughout the world -- 46 percent from Africa; 27 percent from South and Southeast Asia; 14 percent from Latin America; 7 percent from the Middle East and 3 percent from Eastern Europe; the remaining 3 percent are U.S. citizens who were tortured abroad.
- The Center's staff of nearly thirty employees is comprised of an interdisciplinary team that includes physicians, nurses, psychologists, psychiatrists, social workers, human rights advocates and professional administrators.
- HOW:** Care is currently provided on an outpatient basis for 150 people per year. The care program is tailored to meet individual client needs, which frequently include medical treatment, psychotherapy and assistance in gaining economic stability and legal status.
- WHEN:** Established in 1985, the Center opened an independent outpatient clinic in May of 1987. Since that time, the Center has provided care services to more than 500 torture survivors and members of their families -- most of them since 1991, when the organization moved into a larger, renovated facility.
- WHY:** Torture is a crime against humanity; as a strategic tool of repression, it is the single most effective weapon against democracy. Its purpose is to control entire populations by destroying individual leaders. The Center for Victims of Torture was founded as a response to the community's outrage over torture and its physical, social, emotional and spiritual consequences. The mission of the Center is to heal the wounds of government-inflicted torture on individuals, their families and their communities. The Center carries out its mission by:
- providing direct and comprehensive care to victims of government-sponsored torture;
 - conducting ongoing research on effective care and rehabilitation models;
 - providing professional training to other care providers throughout the world;
 - contributing to the prevention and ultimate elimination of torture through public education campaigns, public policy initiatives and cooperative efforts with national and international human rights and organizations.

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List of organizations that have endorsed the Torture Victims Relief Act of 1995 (H.R. 1416) and the Comprehensive Torture Victims Relief Act (S. 1058) as of May 20, 1996:

Advocates for Survivors of Trauma and Torture
American Arab Anti-Discrimination Committee
American Association for the Advancement of Science
American Friends Service Committee, Washington Office
American Immigration Lawyers Association
American Psychological Association
Amnesty International U.S.A.
AMIGOS de los SOBREVIVIENTES
Anti-Defamation League
B'nai B'rith
Bread for the World
Catholic Foreign Mission Society of America,
Maryknoll Fathers and Brothers
Center for Development of International Law
Center for Human Rights Legal Action
Center for International Policy
Center for Victims of Torture
Church World Service Immigration and Refugee Program
Coalition "Missing" (organization of North American victims of violence in Guatemala)
Columban Fathers Justice and Peace Office
Commission on International Human Rights, International Peace Research Association
Commission on Social Action of Reform Judaism
Conference of the Major Superiors of Men
Doctors of the World--U.S.A.
Episcopal Migration Ministries
Ethiopian Community Development Council, Inc.
Francois-Xavier Bagnoud Center for Health and Human Rights, Harvard School of Public Health
Friends Committee on National Legislation
Fund for New Priorities in America
Guatemala Human Rights Commission/ USA
Human Rights Advocates, San Francisco
Human Rights Clinic, Montefiore Medical Center
Human Rights Watch
Immigration Refugee Service of America

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Indian Law Resource Center
Institute for Policy Studies
Institute for the Study of Psycho-Political Trauma
International Educational Development, Inc.
International Human Rights Law Group
International Labor Rights Fund
International Rescue Committee
Kentucky Interreligious Task Force on Central America
Lawyers Committee for Human Rights
Lutheran Immigration and Refugee Service
Lutheran Office for Governmental Affairs, Evangelical Lutheran
Church in America
MADRE, Inc., New York, NY
Marjorie Kovler Center, Chicago, IL
Mennonite Central Committee
Minority Rights Group, Washington
National Education Association
National Spiritual Assembly of the Baha'is of the U.S.
NETWORK: A National Catholic Social Justice Lobby
Physicians for Human Rights
Physicians for Social Responsibility
Program for Torture Victims, Venice, CA
Religious Action Center of Reform Judaism
Robert F. Kennedy Memorial Center for Human Rights
Southeast Asia Resource Action Center
Survivors International, San Francisco
Unitarian Universalist Association
United Church Board for World Ministries,
The United Church of Christ (U.S.A.)
United Church of Christ, Office for Church and Society
United Methodist Church General Board of Church and Society
United Nations Association of San Francisco
United States Catholic Conference
United States Committee for Refugees
Veterans for Peace
Washington Office on Africa
Washington Office on Latin America
World Federalist Association
Xanthos, Inc., Alameda, California



U.S. Department of Justice
Immigration and Naturalization Service

TESTIMONY OF

PHYLLIS A. COVEN

DIRECTOR OF INTERNATIONAL AFFAIRS

IMMIGRATION AND NATURALIZATION SERVICE

BEFORE

HOUSE COMMITTEE ON INTERNATIONAL RELATIONS

SUBCOMMITTEE ON INTERNATIONAL OPERATIONS AND HUMAN RIGHTS

HEARING ON

VICTIMS OF TORTURE

May 8, 1996
Rayburn House Office Building
Washington, D.C.

Introduction

Mr. Chairman and Members of the Subcommittee, I am pleased to be able to submit testimony on the important topic of this hearing, "Victims of Torture." I regret that previously scheduled binational meetings between our government and the Government of Mexico precluded my direct participation.

The Office of International Affairs of the Immigration and Naturalization Service (INS) coordinates the adjudication of both asylum applications (submitted by people applying from within the United States) and refugee applications (submitted by people applying overseas). In making asylum or refugee determinations, INS officers often encounter survivors of torture. These victims sometimes come from countries where torture is a common experience. Some torture survivors report that they were subjected to systematic infliction of physical or psychological pain and suffering in order to gather information, to punish, or to intimidate.

I would like to begin by giving some background on how INS conducts refugee determinations generally, followed by a review of the extensive training INS adjudicators receive on issues such as torture. I will also spend a few moments reviewing with you other issues relating to torture and persecution.

General Background

Less than 2 months ago we celebrated the 16th anniversary of the Refugee Act, signed into law by President Jimmy Carter on March 17, 1980. The Refugee Act brought the United States domestic law into harmony with international law, and significantly changed how INS processed refugee and asylum applications. That act defined "refugee" as a person who is unable or unwilling to return to his or her country because of "persecution" or a "well-founded fear of persecution" on account of race, religion, nationality, membership in a particular social group, or political opinion.¹ Torture is a form of "persecution" experienced by many refugee claimants.

Overseas refugee adjudications are made by immigration officers posted at many of our 24 foreign offices. Circuit rides are made to other refugee processing posts around the world to

¹ The U.S. counterpart to the "refugee" definition contained in Article 1 of the 1951 Refugee Convention is section 101(a)(42) of the Immigration and Nationality Act (INA). Sections 207 and 208 of the INA provide for the admission of refugees and asylees, respectively. Article 33 in the Convention, the "nonrefoulement" provision, commits the signatories not to return persons to a country where their lives or freedom would be threatened. Its correlative in the INA is section 243(h) dealing with "withholding of deportation."

interview applicants seeking refugee resettlement in the United States. During Fiscal Year 1995, 99,490 persons were admitted to the United States as refugees.

Refugee processing priorities set guidelines for the orderly management of applications for admission within the annual authorized refugee admissions ceilings and ensure that those cases of greatest concern to the United States have ready access to the United States admissions program. The highest priority is given to victims of torture and other vulnerable refugees.

INS formed the Asylum Officer Corps in 1991 pursuant to the mandate of the 1990 Asylum Regulations which called for the creation of "a corps of professional Asylum Officers who are to receive special training in international relations and international law" to adjudicate the asylum applications of those aliens who are already in the United States and are not in removal proceedings. Immigration judges of the Executive Office for Immigration Review consider asylum applications from aliens in exclusion or deportation proceedings.

In response to President Clinton's immigration initiatives announced on July 27, 1993, the INS and the Department of Justice formulated a plan for comprehensive asylum reform. The plan is a collaborative effort developed after consultations with Congress and interested governmental and non-governmental groups and individuals, especially those involved in asylum issues. The asylum reform regulations became effective on January 4, 1995. The aim of these new regulations is to make the United States' asylum system a model of fairness and efficiency, so that those deserving of protection can receive it quickly. Incentives for fraud and abuse have been minimized, and the system is fair and prompt.

This Administration sought and Congress provided, for the first time, the resources necessary to do the job through the Violent Crime Control Act of 1994. That law resulted in the doubling of the authorized Asylum Officer positions from 150 to 325 and designated the source of funding for them. Our new Asylum Officers come from diverse backgrounds, some with prior government experience, others without; some with prior refugee experience, others without. All of them are selected because of their unique skills, cross-cultural sensitivity, and abilities to identify those applicants deserving of protection in the United States.

Sensitivity to Torture Survivors: Training Of INS Adjudicators

All INS asylum and refugee adjudicators are given expansive training on issues relating to torture in order to sensitize the adjudicators to the unique, humanitarian issues involved in such claims. This training covers such important areas as interview techniques, the effects of post-traumatic stress disorder on the ability to present testimony, and credibility findings. INS frequently invites speakers from Non-Governmental Organizations (NGOs) to participate in the training of INS Officers.

Interview Techniques: Torture

INS Officers are trained to be sensitive to persons who have experienced torture and to understand how the experience of torture can potentially inhibit persons from fully expressing an asylum claim. Officers learn that there are no limits to the human imagination regarding the variety of barbaric acts that can be inflicted on individuals. Torture can take many forms, including beatings, sensory deprivation (such as depriving the victim of sleep, light, or protection from the elements), electric shock, psychological torture, and sexual violence.

According to an excerpt from *"The Dilemma of Revictimization: Survivors of Torture Giving Testimony"* (an excerpt that is reviewed by all INS Asylum Officers):

The dynamics of the disorder are best understood by the interaction between two factors: the painful intrusive memories of the trauma, and the defenses used to ward off these memories. The questioning during investigations, hearings, etc, is an extremely emotional event for the survivor. The story is rarely recounted without an actual sensory reliving of the experience (physical pain, tastes, sounds, and smells). It is not simply a recollection of events.

INS Officers are authority figures and, from the applicant's point of view, foreign government officials. All INS Officers must be culturally sensitive to the fact that every asylum applicant is testifying in a foreign environment and may have survived experiences that give him or her good reason to distrust persons in authority. The fear of encounters with government officials in countries of origin may carry over to countries of reception; and this fear may cause some asylum applicants to be initially timid and less than forthright at interviews. INS training on this issue is in conformity with guidance provided by the United Nations High Commissioner for Refugees: "A person who, because of his experiences, was in fear of the authorities in his own country may still feel apprehensive vis-a-vis any authority. He may therefore be afraid to speak freely and give a full and accurate account of his case." (UNHCR Handbook at paragraph 198.)

Post-Traumatic Stress Disorder

Torture does not always leave only physical scars; it may leave psychological and emotional scars as well. Such trauma sometimes results in "Post-Traumatic Stress Disorder" or PTSD. Trauma may cause memory loss, distortion, or dissociation, and may cause other applicants to block certain experiences from their minds in order not to relive their horror by the re-telling.

INS officers are sensitized to the fact that a torture survivor suffering from PTSD may lose his or her composure when being interviewed. Officers are made aware of the effects of trauma on certain applicants, and the need to formulate interview strategy when confronted with an applicant who may be suffering from a trauma-related condition.

Credibility

INS Officers are also given careful training on the subject of credibility in the context of trauma-sufferers. For example, INS refugee adjudicators are trained that the demeanor of traumatized applicants can vary. Claimants having trauma-related conditions might not behave in a manner that comports with their stories. People suffering from PTSD may appear numb or show emotional passivity when recounting past events of persecution. Some applicants may give matter-of-fact recitations of serious instances of mistreatment. In these and other cases, credibility does not hinge on the demeanor of claimants.

NGO Training of INS Officers

Recognizing the widespread use of torture and the problems encountered by survivors of torture, the number of treatment centers for victims of torture have increased around the world in recent years, and the mental health field is learning more about the psychology of victims of torture. There are several such centers in the United States, including:

- ▶ The Center for Victims of Torture in Minneapolis;
- ▶ The Marjorie Kovler Center for the Treatment of Survivors of Torture in Chicago;
- ▶ Survivors International in San Francisco.

INS invited the Center for Victims of Torture to give a presentation at the training of new INS Asylum Officers in November, 1995. The presentation was very well-received, and the Training Module prepared by the Center is now a permanent addition to INS training materials. INS has always invited NGO speakers to our training sessions for new Asylum Officers, and we will continue this practice in the future.

The United Nations Convention Against Torture

New international obligations under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also provide for expanded protection in the U.S. for victims of torture. On October 21, 1994, President Clinton deposited the United States instrument of ratification for the Torture Convention with the Secretary General of the United Nations. For the United States, the Torture Convention entered into force on November 20, 1994. Under Article 3 of the Torture Convention, the United States has agreed not to "expel, return ('refouler') or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture." In giving advice and consent to ratification of the Convention, the Senate adopted understandings that clarify that Article 3 requires an alien to show that it is more likely than not that he or she would face torture.

Article 3 establishes protection from deportation that converges to some extent with the protection available in the asylum and withholding of deportation provisions of the Immigration and Nationality Act. Both asylum and withholding of deportation, however, are unavailable to persons who have themselves committed certain criminal or persecutive acts or who pose a danger to the national security. Further, a person may establish eligibility for asylum and withholding only based on harm inflicted on account of the specific grounds enumerated by the statute. These statutory forms of relief are not available to persons who fear harm because of other reasons.

While, as mentioned before, many fleeing torture can benefit from the asylum and withholding laws, the coverage of Article 3 of the Torture Convention is different -- in some senses broader and in other senses narrower -- than that of withholding and asylum. Article 3 is more limited than the asylum and withholding laws, because torture is defined as a strict and narrow concept. Torture is an extreme and intentional infliction of suffering that does not include all threats to life or freedom or all persecution that might qualify as severe enough harm to warrant asylum or withholding of deportation. In other ways, however, the obligations of Article 3 are broader than those currently embodied by the statute. Unlike asylum and withholding, Article 3 enumerates no particular protected reasons for which torture must be inflicted. Rather, Article 3 prohibits the return of an alien to a country where he or she would be tortured for any reason. Further, unlike the withholding provision, Article 3 contains no exceptions from protection for criminal aliens or aliens who pose a danger to the national security. Thus, Article 3 may require the United States to protect an alien from deportation to a certain country when there is currently no statutory relief available.

Although there is currently no statutory provision to implement Article 3 of the Torture Convention, there is administrative authority to furnish protection under Article 3 where appropriate. In addition, the INS is in the process of developing uniform procedures to ensure that no person is returned to a country where he or she would face torture.

Other INS Achievements: Protection against Gender-Related Violence in The Last Year

INS has made other progress recently on issues relating to violence and persecution, most notably in the area relating to gender. Gender-related violence is a new and developing area in U.S. immigration law and procedure. Our achievements during the last twelve months in institutionalizing the protection of refugee and immigrant women from gender-related violence fall into two areas: 1) the publication of a new rule to protect the rights of women and children whose immigration status is linked to an abuser and 2) the release and implementation of gender guidelines for adjudicating asylum claims.

Battered Alien Women and Children

On March 26, INS Commissioner Doris Meissner announced the issuance of new interim regulations implementing Violence Against Women Act provisions, signed into law by President Clinton as part of the 1994 Violent Crime Control Act. The new regulations allow abused alien spouses and children of U.S. citizens or lawful permanent residents to "self-petition" to become legal permanent residents. Abusive spouses of some alien women living in the United States have threatened to have them deported if they do not comply with the abusers' wishes. Abusers have refused to file relative petitions that would allow their spouses and children to apply for permanent residence. Others have threatened to withdraw petitions already filed.

The new regulations address this serious problem by preventing the abusive spouse from using the petitioning process as a means to control the alien spouse or child. This ensures that our immigration laws cannot be used to further violence against alien spouses and children and force them to remain in abusive relationships. In short, battered alien spouses and children no longer have to depend on their abusers to become lawful permanent residents and can now seek legal status on their own.

INS Asylum Gender Guidelines

The INS Asylum Gender Guidelines were issued almost a year ago, on May 26, 1995. These guidelines are a collaborative effort developed after consultations with interested governmental and non-governmental organizations and individuals. A month after their release, we invited experts on gender-related asylum claims, including instructors from Harvard University Law School, a representative of the Canadian Immigration and Refugee Board, and representatives of the United States government, to help us provide intensive training on this issue. Every Asylum Officer now receives four hours of specialized training on asylum claims involving gender-related violence.

We are particularly proud of our Gender Guidelines, both because we were only the second refugee processing country to implement such guidelines, and because we were able to work so closely with leading academic, governmental, and non governmental human rights experts in the development of our guidelines and our training.

The Gender Guidelines provide Asylum Officers with substantive guidance on the cardinal principles of American asylum law that bear on gender-related asylum cases. The Guidelines do not enlarge or expand the grounds for asylum that were specified by Congress and the understanding the courts have reached about those grounds.

The Guidelines also identify procedural difficulties that women who have suffered gender-related violence may face in presenting their cases, and offer solutions to address their special needs. For example, INS recognizes that women who have been sexually assaulted may be unable

to disclose these traumatic incidents to male interviewers, and therefore allows its Asylum Offices to assign female adjudicators when personnel resources permit. Similarly, the INS encourages the use of female interpreters for gender related claims. Additionally, recognizing that women may be reluctant to discuss incidents of sexual violence in front of their children and male relatives, Asylum Officers are encouraged to provide women with the opportunity to be interviewed outside the hearing of other members of the applicant's family.

How The Public Can Help

The INS takes pride in knowing that the real progress we have made recently with respect to persons fleeing torture and other harm was achieved with the direct support and guidance of NGO and human rights monitoring communities in America. I would like to mention three ways in which we hope we can continue to rely on the support of the American public.

First, many torture survivors need *pro bono* or low-cost legal representation. There are many excellent community organizations, including the Lawyers Committee for Human Rights and many university law clinics, that offer specialized training to lawyers who are willing to provide *pro bono* representation to persons affected by torture or other violence.

Second, torture survivors and other applicants benefit greatly from the work of church and community-based groups. Volunteers without legal training are always welcome in these organizations and can make a tremendous difference in the lives of asylum claimants and others seeking relief under the immigration laws.

Third, the INS Resource Information Center is working to ensure that information concerning human rights violations is distributed regularly and systematically to all INS adjudicators. Such information may be produced by government agencies, such as the State Department, inter-governmental entities, such as the United Nations, or by non-governmental human rights monitoring organizations. We welcome all the information and support the human rights monitoring community is able to provide us on these issues.

Closing

In closing, I would like to say that INS has made real progress addressing the concerns of those in flight from torture and other harm.

In his farewell address on January 14, 1981, former President Jimmy Carter said that: "America did not invent human rights. In a very real sense . . . human rights invented America." The advances made by INS recognize and are grounded in the concept that President Carter expressed.

Thank you for the opportunity to provide testimony on this significant topic.

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