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**Hearing on**

**“HUMAN RIGHTS AND DEMOCRACY ASSISTANCE:  
INCREASING THE EFFECTIVENESS OF U.S. FOREIGN AID”**

**before the**

**UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON FOREIGN AFFAIRS**

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## **HUMAN RIGHTS AND DEMOCRACY ASSISTANCE: INCREASING THE EFFECTIVENESS OF U.S. FOREIGN AID**

### **Introduction**

Chairman Berman and Members of the Committee, thank you for convening this hearing to examine how to increase the effectiveness of U.S. foreign aid in advancing human rights and promoting democracy. The existing statutory framework for U.S. foreign assistance is sorely in need of an overhaul after nearly half a century. I appreciate the opportunity to be here this morning to share Human Rights First's insights and recommendations on how to advance protections for universal rights in this context. We are grateful for your leadership, Mr. Chairman, and that of the Committee in tackling the effectiveness of foreign aid head-on, and we welcome the Committee's recognition that advancing human rights and promoting democracy must be key objectives of U.S. foreign assistance policy.<sup>1</sup> Realizing these goals will require determination, resources, and creativity. We must build new tools into the foreign aid framework, and strengthen existing ones. We thank the Committee staff who have consulted widely with stakeholders as part of this process, and we look forward to continuing to work with you to assist in this important effort.

My comments today will focus on the Committee's Human Rights and Democracy Discussion Paper released last week. Human Rights First, along with other members of the human rights community, including the Council for Global Equality, the Washington Office on Latin America, Human Rights Watch, the International Justice Mission, and others, put forward several recommendations to Committee staff in the form of both general principles and specific legislative proposals. I have attached those documents to my testimony and ask that they be included in the record of this hearing. Human Rights First's views on these issues are also shaped by the recommendations which came out of the Human Rights Summit that we held with Freedom House here in Washington in February. At the Summit, we brought together human rights activists from over two dozen countries to discuss the challenges they are facing, hear their concerns, and formulate recommendations to governments—including the United States government—for how to improve support for those on the frontlines of advancing human rights. I should be clear, however, that I am speaking today on behalf of Human Rights First alone, and not any other organization.

Let me begin by making clear that we very much welcome the overall approach outlined in the Committee's Discussion Paper, and we support many of the principles articulated in it. Indeed, the document reflects several of our recommendations. Nevertheless, we believe that the Committee must be more ambitious in order to meet the objectives it seeks to achieve. We have a number of suggestions to strengthen the proposals in the Committee's Discussion Paper and, in particular, to ensure that as it moves towards translating these ideas and principles into specific statutory language, the Committee is putting into place a robust and effective framework that will advance human rights.

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<sup>1</sup> *Concept Paper for Foreign Aid Reform* July 23, 2009.

I would like to highlight three key principles to guide reform efforts that will strengthen the statutory framework for foreign aid to better advance human rights:

First, **do no harm**. In seeking to advance human rights, our foreign assistance should take a cue from the Hippocratic Oath. The Committee should ensure that U.S. aid—especially security assistance—does not undermine respect for human rights or democratic governance, or lend legitimacy to governments that violate fundamental rights. Where possible, assistance should provide incentives to encourage recipients to improve their human rights performance.

Second, foreign assistance that is specifically designed to achieve human rights outcomes (“**affirmative assistance**”) **must be based on a clear strategy and operate through multiple channels of assistance** in order to be effective.

Third, a new statutory framework for foreign assistance should strengthen the infrastructure to advance human rights and democracy throughout the government, not just at the State Department and USAID. A “**whole of government**” approach to advancing human rights should result in reinforcing messages and consistent political support for human rights from all parts of the government.

## **Do No Harm**

### *Incentivizing human rights improvements through U.S. security assistance*

The Committee’s Discussion Draft rightly prioritizes an effective minimum standard of human rights compliance before permitting a country to receive U.S. aid, and highlights the need to evaluate existing assistance to determine its impact on human rights. The current threshold for withholding assistance—a consistent pattern of gross human rights violations—has not been effective. The assessment of human rights impacts has been sporadic and weak.

Although we have recommendations on other forms of assistance, I would like to focus my remarks here on security assistance, because so many human rights violations are committed with impunity by foreign security forces.

Our recommendations on security assistance link compliance, monitoring and evaluation in an effort to incentivize concrete human rights improvements in problematic countries receiving U.S. security assistance.

We recommend that the legislation build incentives that will help move recipients of U.S. security assistance away from practices that violate fundamental civil and political rights of their populations.<sup>2</sup> This could be done by establishing an annual process for determining which recipients of U.S. security assistance have significant problems in one

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<sup>2</sup>We spell out this proposal in more detail in an August 13, 2009 memorandum to the Committee from human rights and democracy promotion groups.

or more areas of internationally-recognized Human Rights (based on the State Department annual Country Reports on Human Rights and other credible sources). Such a finding should result in withholding a minimum of 30% of security assistance (both DOS and DOD-funded) until specified improvements in problem areas are achieved. Congress should authorize affirmative assistance to help governments meet improvement benchmarks and avoid having their aid permanently reduced.

An absence of effective conditionality on foreign security assistance fuels the damaging impression that the U.S. government condones or even supports human rights violations committed by recipient security forces and recipient governments. Such impressions are harmful to broader U.S. national security interests and represent a significant cost that should be taken into consideration when objections are raised suggesting that applying human rights conditions will complicate or worsen vital strategic relationships. Both seeking to apply conditions to security assistance and overlooking violations have costs, but as a general principle, U.S. interests are better served by building security cooperation with governments that respect the rights of their citizens and share our values of respect for human rights and democracy. As President Obama observed last year in Cairo, “Governments that protect these rights are ultimately more stable, successful and secure.”<sup>3</sup>

In addition to providing more effective conditionality and incentives for human rights improvement, another aspect of the “do no harm” principle is ensuring that the way in which U.S. foreign assistance is delivered does not undermine basic political freedoms that the assistance is designed to promote. For example, the U.S. government should not accede to the demands of other governments to vet or restrict U.S. foreign assistance to independent human rights organizations. U.S. assistance is subject to these restrictions in a number of countries, including Egypt and Peru, that restrict the ability of U.S. government agencies to deliver foreign assistance directly to independent non-governmental human rights organizations. Such arrangements create the impression that governments hold a veto power over the way U.S. funds are disbursed and restrict access to much-needed support for vulnerable local human rights defenders.

### *Transparency and Evaluation*

We also recommend that Congress require periodic comprehensive evaluation of the human rights impacts of U.S. security assistance to countries with significant human rights problems. In order to do this, an assessment methodology would need to be developed and the data collection requirements of Sections 548 and 549 of the current FAA should be expanded. To promote transparency and evaluation, security assistance expenditure and programming information—now spread out through several hard to find reports and other documents—should be brought together in a single unified internet-based portal. This would reduce burdensome reporting and ease oversight.

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<sup>3</sup> Remarks by the President on a New Beginning, Cairo University, Cairo, Egypt, June 4, 2009.

### *Expanding and Strengthening the Leahy Law*

We very much welcome the Discussion Paper's focus on strengthening the Leahy Law and incorporating it directly into the statutory framework for foreign aid, rather than relying on annual appropriations bills. Restrictions on aid to security units who have committed severe violations of human rights with impunity are important to the "do no harm" principle. There have, however, been problems in Leahy Law implementation and these problems must be resolved.<sup>4</sup>

We strongly endorse the expansion of Leahy Law coverage to units of recipient governments beyond security forces, which should include the police. We also welcome expansion to aid provided by the U.S. Department of Defense. Over the last decade, the Defense Department has become much more of a major player in foreign assistance. One estimate has the DoD providing \$8.9 billion in military aid worldwide in FY2009, outstripping programs administered by the State Department.<sup>5</sup> It is essential to bring more transparency and oversight to that process as well as to bring DoD aid squarely under human rights policy. Application of the Leahy Law is a start, but the other tools that we have recommended above—evaluating the human rights impact of aid and restricting it if there are persistent human rights problems—are also intended to ensure that DoD aid is in line with human rights objectives. The law should also make clear that weapons and equipment, as well as training, are covered by the prohibition.

It is also very important that the Discussion Paper has laid down markers regarding the need for a process to gather evidence of human rights violations and ensuring adequate funding and other resources in order to do so. Several reports of the State Department Inspector General, as well as the GAO, have raised concerns about the systems in place in U.S. Embassies and the State Department to properly vet security units. A standard process needs to be put in place to ensure that evidence of human rights violations is gathered and assessed in order to apply the standard.

### *Adequate Resources*

We have recommended that a small administrative fee be applied to all security assistance in order to provide the resources necessary to implement the reforms outlined above, as well as to provide more resources to U.S. Embassies in countries of concern receiving U.S. security aid. The Leahy Law has been undermined by failure to devote sufficient resources to its implementation. The cost of human rights protection—that is, the risk that US security assistance is facilitating or condoning human rights abuses—should be integrated into the cost of that assistance.

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<sup>4</sup> See, e.g. OIG Report No. ISP-I-08-20A, Inspection of Embassy Monrovia, Liberia - March 2008, p. 12; OIG Report No. ISP-I-07-24A, Inspection of Embassy Phnom Penh, Cambodia - August 2007.

<sup>5</sup> Gordon Adams, Testimony before the House Subcommittee on State, Foreign Operations and Related Programs, 5 March 2009.

## **Develop a Clear Strategy and Multiple Channels for Affirmative Assistance**

We welcome the Discussion Draft's emphasis on human rights and democracy action plans. Such plans are essential, fundamental building blocks, and assistance designed to advance human rights outcomes ("affirmative assistance") should be funded as a part of the strategy embodied in these plans. USAID human rights assistance, in particular, should be tied directly to a multiagency strategy to promote human rights in a specific country, rather than being derivative of the overall USAID country strategy, which likely will have different objectives. As noted below, we believe DRL should play a lead role in both developing and monitoring implementation of these plans in countries with serious human rights challenges. These action plans should include strategies to support independent civil society organizations, media and human rights defenders, who should be consulted in putting the plans together. To carry weight, human rights and democracy action plans must be supported by the highest officials in the U.S. government, and in a consistent manner across different agencies that have dealings with target foreign governments.

Affirmative assistance is an important tool, but in order for it to be successful, flexible and creative approaches must be developed to avoid interference by the government in question or, in some cases, undercutting the effectiveness of recipients by creating too close a connection with the United States.

Governments with long-standing and complex aid relationships with the United States have developed increasingly elaborate ways of interfering with and controlling the delivery of such assistance, especially in areas dealing with human rights and democracy. Egypt is a prime example of this problem. Human rights activists in Egypt are sometimes told by Egyptian government officials that its policy of controlling access to foreign funding for independent non-governmental organizations has the support of the U.S. government and that, therefore, their efforts to secure foreign financial support from diverse sources—including U.S. foreign assistance—free of a de facto veto from the Egyptian government, are illegitimate.

For example, Abdel Aziz Hegazi, Chairman of the General Federation of NGOs (the official body with which all Egyptian NGOs are required to register) reportedly tells representatives of human rights NGOs that restrictive and intrusive policies promoted by the government-backed Federation and currently upheld in Egyptian law are supported by U.S. policy. As a result, it is widely believed in the Egyptian human rights community that the U.S. government is not interested in supporting their efforts to guard and expand their already highly-constrained independence.

U.S. government representatives in Egypt need to be pro-active in articulating and explaining the U.S. vision for what a truly independent Egyptian NGO sector should be, and should be vigilant in challenging inaccurate statements of U.S. policy by Egyptian officials.

In our view, it would be a mistake to view assistance designed to advance respect for human rights as a subset of democracy assistance, as the Discussion Draft appears to suggest. Human rights and democracy are inextricably connected. Only when human rights are respected and protected can democracy be secured. Yet, it is also possible—and sometimes critically important—to advance human rights objectives through affirmative assistance in nondemocratic countries or countries where the strategy to promote democracy is unclear. In such countries, support can be provided, directly or indirectly, to human rights defenders to enhance their efforts to document violations, advocate before international bodies, and raise public awareness. Thus, while planning and executing strategies to promote democracy and human rights should not be done in isolation from each other, it is important that they not be treated as co-extensive; if they are, critical opportunities to build civil society capacity to advance human rights will be lost.<sup>6</sup>

The Discussion Draft proposes strengthening the democracy and human rights functions at USAID. While USAID can certainly do more to advance human rights objectives, we would caution against an overreliance on that approach. Decision making authority at USAID is heavily concentrated in its field missions, and for many of its development objectives the mission works closely with host government agencies. While this orientation may be essential for advancing certain development objectives, and perhaps reasonable for some assistance to promote democratic institutions, it is generally not appropriate for funding human rights work by independent organizations, which may be critical of government policies and practices. In addition, there are a number of countries with significant human rights problems—Syria, Burma, Belarus, Iran, Eritrea—but there is no USAID presence in the country.

For these reasons, multiple channels of assistance must be available for advancing human rights objectives as such assistance can involve a wide range of recipients, strategies, activities, and donors, including government and quasi-official entities, as well as both U.S.-based and indigenous independent non-governmental organizations. DRL, U.S. Embassies, and government-funded entities like NED and USIP each have different strengths and capabilities, including different capacities to respond quickly to events on the ground. Private organizations may have the benefit of being less constrained by bilateral agreements negotiated by the United States and the recipient government. As the State Department's lead bureau with human rights and democracy promotion expertise, DRL must have sufficient capacity to provide and monitor assistance; this should be strengthened. The necessity for this multiplicity of actors underlines the importance of the action plans to ensure coordination between different entities.

The Discussion Paper wisely recognizes that assistance that is too closely associated with the U.S. government may put organizations at risk and undermine their effectiveness. Independent organizations themselves are in the best position to assess the risks, and

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<sup>6</sup> For an example of tension between rule of law assistance for prosecutors in Colombia and baseless prosecutions of Colombian human rights defenders, see Human Rights First, Statement at Hearing before the Senate Committee on the Judiciary Subcommittee on Human Rights and the Law “Drug Enforcement and the Rule of Law: Mexico and Colombia” May 18, 2010, <http://www.humanrightsfirst.org/defenders/pdf/20100518-HRF-statement-Durbin-hearing.pdf>.

should be consulted. Nevertheless, we hear from many of our NGO partners overseas that one primary objective of U.S. human rights diplomacy and assistance should be to strengthen the legitimacy of human rights advocacy by domestic organizations in their own countries. In some cases this might be done through direct assistance to human rights defenders, but in many other situations, more creative approaches are necessary. This may include U.S. support for national human rights institutions that is structured to encourage the independent functioning of such institutions in accordance with international standards and which emphasizes the participation of independent civil society organizations, especially human rights organizations, in their work as a way of bolstering their credibility and effectiveness.

One recommendation of our Human Rights Summit was that the United States should facilitate, support, and strengthen engagement by independent civil society organizations in regional and sub-regional multilateral bodies. As flawed as some of these bodies may be, governments have taken on human rights commitments through these bodies, and efforts by local groups to engage their governments in this context can build their credibility at home and help insulate them from criticism that they are over-dependent on U.S. and other outside influence. The statutory framework should reflect this as a major element of the strategy to advance human rights.

We endorse the need for guidelines to monitor and evaluate the performance and impact of democracy and human rights related assistance, as mentioned in the Discussion Draft. This effort should involve a wider range of stakeholders than USAID and its implementing partners, and should also include human rights specialists from the State Department and U.S. embassies abroad, as well as, to the extent possible, representatives of recipient organizations on the ground, including human rights defenders.

We also support rewriting Section 660 to authorize police and security sector training, including training specifically on human rights. In our work combating bias motivated violence, for example, we have seen the importance of providing specialized training to police and prosecutors in responding to hate crimes, better data collection for crimes based on race, ethnicity, religion, gender, sexual orientation, gender identity and disability, as well as assistance with investigation of cases. Effective and accountable law enforcement training can advance important human rights objectives such as the hate crime training mentioned above, but also including better relations with marginalized communities, strengthening discipline and accountability for abuses, and the creation of special units to combat particular problems, such as gender-based violence, hate crimes, and human trafficking. The United States has much to offer by way of its own experience in these areas. Assistance to law enforcement should be covered by the Leahy Law. In addition, because so many U.S. agencies are involved in police training, there should be consolidated reporting to Congress on this assistance. This should focus on more than just the number of units or individuals trained; reports should evaluate progress towards measurable human rights outcomes.

## **Build Infrastructure for a Whole-of-Government Approach**

Much of the infrastructure of the U.S. government to advance human rights globally can be traced to the Foreign Assistance Act. Any rewriting of the FAA should strengthen the ability of the entire government not only to deliver more effective foreign assistance that promotes democracy and human rights, but also to ensure that the rhetorical commitment of the United States to universal human rights is backed up with committed action as a foreign policy priority.

Several aspects of the Discussion Paper address this need, but in our view this needs to be more robust in order to have a significant impact.

As mentioned above, we fully endorse the idea of country action plans, developed in consultation with DRL, USAID, and other relevant bureaus and agencies, as well as local civil society groups and representatives of marginalized or persecuted communities, where possible. To promote transparency and oversight, we applaud the requirement expressed in the Discussion Draft that the plans be made available to the Congress and to the public.

For these plans to work, however, they need to exist more than just on paper; they have to become part of the fabric of the U.S. approach to each country across all relevant government agencies. This requires leadership from the top, and consistent oversight by Congress. It is vital that there be agreement at the political level to follow through on what the Discussion Draft calls “incentives for cooperation.” That is, both the carrots and the sticks in the plan need to be viable tools, used as necessary. Moreover, U.S. government interlocutors at all levels and across all agencies must be aware of the strategy and deliver consistent messages to their foreign counterparts.

In addition to political will, there has to be someone in charge of implementing the plan. This could be the U.S. Ambassador or Chief of Mission, in consultation with a specially-designated Deputy Assistant Secretary from the relevant regional bureau and the Assistant Secretary for Democracy, Human Rights and Labor. The regional DAS and the Assistant Secretary for DRL could be in charge for those countries where the United States does not have a diplomatic presence. When U.S. government decisions are being made that have an impact on the plan—decisions about diplomatic engagement, trade and investment, security cooperation or assistance, as well as other forms of assistance—the officials in charge of the plan must have a seat at the decision-making table.

Finally, there needs to be sufficient human and other resources to implement the plan. If the U.S. Ambassador is the CEO for advancing human rights and democracy in a particular country, in those countries where the problems are severe and the stakes are high, there needs to be a COO as well. This would be a new senior level position that should be a part of the Embassy’s country team. Their entire job should be to advance implementation of the plan, keeping an eye on the strategy, deploying resources, assessing the full range of U.S. activities in country from the point of view of promoting democracy and human rights. We are not advocating creation of this position in every

Embassy, but in those where the human rights problems are substantial and there is extensive interaction in the bilateral relationship—Colombia, Pakistan, Sudan, Russia, China, Egypt, Vietnam, Saudi Arabia and Indonesia, for example—we see this as essential.

This level of attention and presence in-country must be matched back in Washington as well. For example, each regional bureau in the State Department should have one Deputy Assistant Secretary devoted to human rights issues region-wide. Similar roles should be identified in other agencies that are engaged in implementation of the country plans, including the Departments of Defense, Justice and Labor.

In particularly difficult countries, additional junior officers may be needed as well. We strongly support the proposal in the Discussion Paper that the assignment of democracy/human rights officers be made in consultation with DRL and USAID. In addition, where expertise is required on particular issues, DRL should be empowered to detail human rights specialists to U.S. missions abroad, analogous to resident legal or security advisors.

The Discussion Paper recognizes the need for comprehensive training for human rights and democracy officers. There is very little now in the way of mandatory democracy/human rights training. All Foreign Service officers serving abroad, as well as those serving stateside who work on issues abroad, should have sufficient in-person training on promoting democracy and human rights. Training should not be limited to human rights/democracy officers. Other officers, for example those working on security assistance, trade, and political/military affairs, require human rights training and need to understand the human rights dimension of their work. This training should not be limited to State Department and USAID, but should also be required for officials in other U.S. government agencies who will assume responsibilities for advancing democracy and human rights.

## **Conclusion**

In his National Security Strategy released last month, President Obama set out the gap between “The World as It Is” and “The World We Seek.” Foreign aid is a critical vehicle for getting from Point A to Point B. It is vital that we seize this moment of opportunity, when our national interests and values are so closely aligned, to develop a framework and strategy for foreign assistance that reflects this alignment. We look forward to working closely with you to build that vehicle and create the world we seek. Thank you.