

Statement
United States Senate Committee on the Judiciary
Genocide and the Rule of Law
February 5, 2007

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Opening Statement of Senator Dick Durbin
Chairman, Subcommittee on Human Rights and the Law
Hearing on “Genocide and the Rule of Law”
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Welcome to “Genocide and the Rule of Law,” the inaugural hearing of the Judiciary Committee’s newly-created Subcommittee on Human Rights and the Law.

We are honored to welcome as well this distinguished panel of witnesses to share their views on this important and timely issue.

After a few opening remarks, I will recognize Senator Coburn, the Ranking Member, for an opening statement, and then we will turn to our witnesses.

Human Rights and the Law Subcommittee

But first a word about this new Subcommittee. I want to thank Senator Patrick Leahy, Chairman of the Judiciary Committee, for establishing the Subcommittee, and for asking me to serve as Chairman. Senator Leahy has championed human rights for many years, and this Subcommittee is another indicator of his commitment to this issue.

This is the first time in Senate history that there has been a subcommittee focused on human rights. And the timing is right. At this moment in our history, it is vitally important to our national interest to promote greater respect for human rights around the world.

When our leaders speak of our inherent desire for freedom and our communal need for democracy, they are acknowledging the fundamentals of human rights. And those who ignore and violate these fundamentals do more than challenge some idealistic goal.

Repressive regimes that violate human rights create fertile breeding grounds for suffering, terrorism, war, and instability. In our time, the world is a much smaller place, and the social ills caused by human rights abuses know no borders. We will never be truly secure as long as fundamental human rights are not respected.

Our Declaration of Independence says, “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights.” Too many times in our history we have fallen short of this ideal, but this commitment to human rights was, and is, the promise of America.

I hope that this Subcommittee will give the Senate an opportunity to work together to maintain America's leadership in protecting and promoting fundamental human rights.

America also stands for another revolutionary idea: the rule of law. As John Adams said, we are "a government of laws, not of men." We should keep in mind that human rights are little more than empty promises if they are enforceable in law.

That is why this is the Human Rights and the Law Subcommittee, and that is why it is part of the Judiciary Committee. And that is why this Subcommittee will focus on the law as a means for making the promise of human rights a reality.

Genocide and the Rule of Law

When Chairman Leahy asked me to chair this Subcommittee, I knew that our first hearing had to be on the subject of genocide and the rule of law.

Rafael Lemkin, a Holocaust survivor and the architect of the Genocide Convention, placed his faith in the ability of the law to prevent genocide. He implored the international community to adopt laws against genocide, saying, "Only man has law... You must build the law!"

The legal prohibition against genocide is obviously an unfulfilled promise. We see this most clearly today in Darfur in western Sudan. In this region of six million people, hundreds of thousands of people have been killed and over two million people have been driven from their homes. For them, the commitment of "never again" rings hollow.

We must ask ourselves why. Is this a failure of law, or of will? Or both? What are the legal obligations of states to prevent genocide before it has begun? Do debates about the legal definition of genocide serve as an excuse for governments not to act? What is our responsibility to protect victims of atrocities that do not meet the legal definition of genocide?

And we must explore legal options for preventing genocide, or, in the worst case scenario, stopping an ongoing genocide, like the one in Darfur.

During today's hearing, we will explore using the law to impose criminal and civil sanctions on individuals who are guilty of genocide. We will discuss the status of the International Criminal Court's Darfur investigation, and whether the federal government is doing everything it can to facilitate that investigation. We will also examine the possibility of criminal and civil liability under U.S. law for people who commit genocide anywhere in the world.

Divestment is another legal tool that has put pressure on the government of Sudan to stop the genocide. Today's divestment movement is the heir to the anti-apartheid movement of the 1980's. Apartheid ended because of the courage and determination of people like

Nelson Mandela, but divestment was also a source of external pressure on the apartheid system.

Today I want to announce that I plan to introduce legislation to authorize state and local governments to divest from Sudan. Senator Brownback, my colleague Senator Obama and members of this Subcommittee have played leading roles in the divestment movement and, more broadly, the fight against the Darfur genocide. I look forward to working with the members of this Subcommittee to enact divestment legislation and other legal measures that will help end the genocide in Darfur.

A little over a year ago, Senator Brownback and I visited Kigali, Rwanda. We stayed in the Hotel Mille Collines, made famous by Don Cheadle's movie Hotel Rwanda. As I walked down the corridor to my room, I could not help but think of that movie and the hundreds of frightened Rwandans who huddled there, fearing the worst. Early one morning, I walked down the hill to Saint Famille, a simple, red brick Catholic Church. I learned later that Saint Famille was a sanctuary for people fleeing the genocidaires. Sadly, this sanctuary was no refuge at all. It was overrun and nearly one thousand people were massacred in the church I visited that morning.

In 1994, my predecessor and friend, Senator Paul Simon of Illinois, pleaded with the Clinton Administration to do more to stop the genocide in Rwanda, and President Clinton later called his inaction the worst foreign-policy mistake of his administration. I salute the Bush Administration for calling the situation in Darfur the genocide that it is. Now that we have acknowledged for more than four years that this horror is happening on our watch, we must summon the courage act to stop this carnage, this genocide.