

kill are broken by the atrocities they have witnessed and suffered through.

Let me turn to the third measure. The third way to commit genocide is to deliberately inflict on a group conditions of life calculated to bring about a group's physical destruction in whole or in part. The numbers in Darfur are appalling and clearly makes a case that this provision is satisfied. Over 1 million people—1 million people—have been driven from their homes, over 400 villages have been destroyed, wells have been poisoned, crops have been destroyed, and granaries and herds have been looted. The militias and Government have done everything possible to ensure that the Black Africans of Darfur cannot survive even if they escape the initial killings. There is nothing left for them. Their herds are gone. Their crops are gone. What is worse is the Government militias are also now blocking humanitarian aid.

These tactics, in the face of the worst humanitarian crisis in the world, can be for no other purpose than to ensure that those who escape the killing now die along the way or die in camps.

The militias have turned the camps into prisons, killing those who leave in search of firewood and food. This campaign is, obviously, not just about driving these people off the land; it is about destroying the Black African groups, and that, I say to my colleagues, is what is genocide. That is genocide.

The final two acts that qualify as genocide are imposing measures intended to prevent births within a group and forcibly transferring children of the group to another group. We have reports that children have been abducted and that women are being raped by Arab men to "make a light baby."

In these societies, a child adopts the father's ethnic background, and by raping all of these women with the purpose of making lighter children, they are effectively meeting the fourth and fifth criteria for genocide in the Convention.

Specifically on the fifth criteria for genocide, forcibly transferring children from one group to another group, I want to share with my colleagues in the Senate the story of a woman named Mecca. She was killed by the militias when she tried to stop them from taking her 3-year-old son. I am sure there are countless others who were killed trying to save their children, as any parent would. For these parents, for the children who have been abducted, for the girls and women who have been raped, for the people dying right now, I ask this body, I plead with this body to support using the term "genocide" because that is what it is.

Although we can make a case that all five of these provisions have been met, the Convention is very specific. The Convention states that any one of these actions constitutes genocide. The fact that we have evidence to support all five qualifying categories only makes the decision to call this genocide that much easier.

The question remains, though, if we call it genocide, what does that mean? What is the significance? Maybe when we know the answer, that will tell us why sometimes some people in the international community may be a little reluctant to call it genocide. The answer to the question once again is right in the convention, both in its title and in its articles. The document is called the Convention on the Prevention and Punishment of the Crime of Genocide. It is called that for a good reason.

We need to make sure that the crimes being committed in Darfur are both prevented and punished. To prevent these crimes, the Government of Sudan and the militias need to be forced to end their reign of terror. We have tried to use diplomatic pressure to get them to start. The U.N. Secretary General and our own Secretary of State Colin Powell both went to the region to plead with the Government to stop the atrocities. The U.N. even submitted a draft U.N. Security Council resolution including targeted sanctions on the militias and an option for sanctions on the Sudanese Government if they did not keep their promises to rein in the militias. All of this, and yet, as Secretary Powell has said, the Government of Sudan is still not keeping their promises. The atrocities continue. That means to prevent genocide, we will need more than promises and high-level visits.

Quite frankly and bluntly, we need troops on the ground. The African Union is going to send 300 peacekeepers, but we all know that is not enough for a region that is the size of Texas. We need more countries to commit troops, and we, the U.S. Government, need to be prepared to fund and assist these troops in reaching the region and protecting the civilian population of Darfur.

The second major responsibility we have under the convention is to ensure that the crime of genocide is punished. The Government of Sudan must try those individuals suspected of committing these atrocities, and if they are found guilty, they must punish them. This includes vetting the ranks of the military to ensure that no further militia members find refuge there. It also means not just rounding up a few low-level members of the militias and punishing them. That is not enough.

In addition, the international community will not accept show trials and, if necessary, an international tribunal should be convened to ensure that justice is served in Darfur.

Justice also must be blind to the position held by those responsible for genocide. If any public officials in Sudan are guilty of genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, an attempt to commit genocide, or complicity in genocide, they must be held just as accountable as the militia members themselves.

It does no one any good to wait until after the fact to call this genocide.

Let's not wait 6 months. Let's not wait a year. Let's not wait 5 years. That is what happened in Rwanda. We cannot afford to let that mistake happen again. That is why I have been calling this genocide, because it is. We must call this genocide.

I urge my colleagues to join Senator BIDEN and myself in calling this genocide. I urge my colleagues to speak out. My colleagues, Senator MCCAIN, Senator BROWNBACK, and others, have been on the floor of the Senate speaking about this issue. Senator BIDEN and I have a bill. I urge my colleagues to come forward and cosponsor and help us pass this bill. I also urge my colleagues to come forward and help us pass Senator BROWNBACK's resolution condemning this as well. This is something that needs to be done. This Senate needs to speak out. This country needs to take action. The international community needs to take action.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that tomorrow morning, immediately following morning business, the Senate resume consideration of S. 2677; provided further that the time until 11:30 be equally divided between the chairman or ranking member of the Finance Committee, and at 11:30 the Senate proceed to vote on passage of the bill with no intervening objection or debate, and all provisions of the governing statute remain in order; I further ask that when the Senate receives from the House the companion measure, the Senate proceed to its consideration, the bill will be read the third time and passed, with no intervening action or debate; provided further, once the Senate has passed the House companion, passage of S. 2677 be vitiated, and the bill be returned to the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### EXECUTIVE NOMINATIONS

Mr. FRIST. Mr. President, last month, the Judiciary Committee reported the nomination of Henry Saad to be a U.S. circuit judge for the Sixth Circuit. I understand the other side will not agree to a time agreement for an up-or-down vote on this nomination. In addition, the Judiciary Committee reported two more Sixth Circuit nominations today. I hope that we could have the Senate vote on each of these judicial nominations prior to the close of this week.

In addition to these circuit nominations, we have three district judges

that are available on the Executive Calendar. I will be talking to the Democratic leader about scheduling these for consideration as well.

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#### EXECUTIVE SESSION

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#### NOMINATION OF HENRY W. SAAD TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

Mr. FRIST. Mr. President, I move to proceed to executive session for the consideration of Executive Calendar No. 705, Henry Saad.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The clerk will report the nomination.

The legislative clerk read the nomination of Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

#### CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk.

The ACTING PRESIDENT pro tempore. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 705, Henry W. Saad, of Michigan, to be United States Circuit Judge for the Sixth Circuit, Vice James L. Ryan, Retired.

Bill Frist, Orrin Hatch, Lamar Alexander, Charles Grassley, Mike Crapo, Pete Domenici, Lincoln Chafee, Mitch McConnell, Ted Stevens, George Allen, Lindsey Graham, John Warner, Jeff Sessions, John Ensign, Trent Lott, Jim Talent, Pat Roberts.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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#### LEGISLATIVE SESSION

Mr. FRIST. Mr. President, I now ask unanimous consent that the Senate resume legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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#### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for morning business, for debate only, with Senators speaking for up to 10 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

The Nation's leading gay and lesbian news magazine, the Advocate, reported that in Baton Rouge, LA, Cedric Thomas was shot several times on May 18, 2004, and finally succumbed to death from complications related to those wounds several weeks later.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

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#### SUBSTITUTE AMENDMENT TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 2004

Mr. HOLLINGS. Mr. President, today, I submit an amendment to the National Aeronautics and Space Administration Authorization Act, S.2541, to offer a more pragmatic and sustainable approach to future space exploration, given the uncertainties that now confront the National Aeronautics and Space Administration (NASA).

Put simply, this substitute addresses three fundamental flaws with the approach contained in the underlying bill. Like the underlying bill, the substitute endorses human exploration of the Solar System but places it in context alongside other, equally important, elements of scientific discovery in space. Second, it states that a gap in U.S. human launch capability is unacceptable and requires NASA to accelerate the development of the next crewed launch vehicle. Finally, it authorizes the National Aeronautics and Space Administration, NASA, for one year, fiscal year 2005, and rejects the "go-as-you-pay" approach the Administration wants to employ in planning for human space exploration.

Allow me to discuss this final point first. The underlying bill authorizes NASA at the President's requested level for five years. I took a different approach—if the agency is embarking on a broad new program, it is unlikely that estimates made now will have any fidelity three, four, or five years from now. After all, we were told in this past week—2 months before the new fiscal year will begin—that it will now take at least \$450 million and possibly as much as \$760 million more than was requested to fix the Space Shuttle just in fiscal year 2005. If the administration cannot make accurate budget pre-

dictions from one year to the next in a 20-year old program, I am not confident that we have any idea what a new exploration program will take. The go-as-you-pay approach is reckless and allows us to avoid difficult questions regarding costs, timetables, and reaching a consensus on the future of human space exploration that will generate not only the support of the space and scientific communities, but of the Congress and the American people, too. It's a license to throw fiscal discipline out the window and drag out projects until they never finish.

Under the substitute I am introducing today, fiscal year 2005 will become a year of planning for a new program of human exploration. The substitute authorizes NASA a single year's funding to plan for the decades of exploration ahead and to begin work on new space transportation and robotic solutions. These solutions are the pathfinders that will enable us to use earth's moon as a test-bed for developing and demonstrating the know-how we need to conduct extended operations on another world's surface beginning by the year 2020.

The substitute attempts to put the proposed program of exploration in context. It embraces the principles of exploration and embraces the human exploration of deep space as a core mission of NASA, including the demonstration of the human beings' abilities to explore and inhabit worlds far beyond the earth. It also embraces the ideals of space flight as expressed in 1958, when the original Space Act and NASA were founded, and restates them in a way that makes them relevant for today—with clarity, division of purposes, and the claim that the United States shall have a U.S. space agency whose chief purpose shall be to contribute to life on earth, learn more about the universe and the mysteries of time and space, and provide leadership for our human pursuits in space.

Under the President's plan, NASA will have a 4-year gap in our ability to launch humans into space. The underlying bill calls for a study of the launch gap. My substitute declares it to be a matter of U.S. policy that any prolonged period of a year or more interruption in U.S. crewed space transportation shall cause the administrator of NASA to report and submit to the Congress a request for supplemental appropriations to resolve those circumstances. Since that is exactly the posture we are headed into in the next decade, we require the administrator to make such report and request within 60 days. In addition, my substitute calls on NASA to immediately begin work on the crew exploration vehicle the next human-capable rocket even in the planning year of FY 2005.

In addition to these three main pillars, the substitute calls for several reports to be prepared to lay the foundation for future programs. It calls for a plan of objectives, capabilities, costs, and milestones that will be used to