

he had always been in southern Sudan. It was a historic moment not that long ago, cheered by millions and millions of Sudanese.

Tragically, 1 month later, on July 30, the helicopter that was carrying Dr. Garang and his passengers crashed, a sudden crash. Why it crashed nobody knows.

Salva Kiir replaced Dr. Garang as First Vice President, and he promises to carry forward this peace process, which is challenging, but it can be accomplished.

His predecessor had worked very hard over many years to take that country to the point of peace. Under that peace agreement, Sudan enters a 6-year interim period, and 4 years into that, at the 4-year mark, nationwide elections will be held at the provincial and national levels. The interim period will culminate with a vote by the people in southern Sudan to decide their political future.

It is a fragile moment for Sudan, but it is one for great hope.

I had gotten involved and worked very hard with Dr. Garang and other leaders of the SPLA and SPLM. I had the opportunity to meet with Dr. Garang many times. I was hosted last August at his home in a place called New Site in southern Sudan, where I spent several days with Dr. Garang and his wife.

This June, not that long ago, I had the opportunity to host Dr. Garang in my Capitol office. During that meeting, he emphasized to me, looking me directly in the eye, that for the peace to hold, both parties must fulfill their obligations. He stressed that continued pressure from the United States is absolutely critical to ensure that these obligations are met.

The civil war and its aftermath have created a staggering humanitarian crisis. I mentioned 5 million people displaced from their homes and over 2 million people have died. That subjects the country to a famine and deterioration and destruction of health care systems and education infrastructure. International assistance in education, in building of roads, in the infrastructure of health care can help show a traumatized nation, after 21 years of civil war, that peace is the only way forward.

As I mentioned, this is a critical moment for Sudan. Many southerners have expressed concern about the unfair distribution and domination of key Cabinet posts by the ruling party. Soldiers from southern Sudan are still waiting for a decision regarding the formation of what are called Joint Integrated Units, with troops from the north and the south participating together, side by side. And violence against civilians in southern Sudan is slowing down, hindering humanitarian and reconstruction efforts in this war-ravaged region of the country.

The road forward is not going to be easy. In the best of worlds, it is not going to be easy. Millions have lost

their lives in this 21 years of struggle. But the days, weeks, and months ahead do hold great promise not only for the north and the south but for the entire country.

During our meeting this afternoon, I hope to hear Salva Kiir's assessment of the peace process and his suggestions, his counsel, his recommendations on how we in this body and the United States can help.

I also hope to discuss the deteriorating situation in Sudan's western region, Darfur. Last week on the floor, I summarized again the deterioration of what is happening in that Darfur region. I also had the opportunity to visit, a little over a year ago, the country west of Darfur, Chad, where there are so many refugees today.

In the past few weeks, we have witnessed a serious escalation in violence among the Jingaweit militias who are supported by government forces. They are ravaging villages, they are ravaging these refugee camps and attacking—and these are the descriptions we continue to get—attacking civilians, attacking humanitarian groups, and attacking the African Union peace-keeping forces.

The recent split among the leadership of Darfur's main rebel group further threatens to undermine the peace talks that are scheduled to resume in the Nigerian capital on November 21, a couple of weeks from now.

It is imperative that all parties bring the violence to a halt. Only peaceful negotiations and dialog ultimately are going to bring true resolution. The Comprehensive Peace Agreement shows that it can be done.

Before his death, Dr. Garang told a hopeful country that the peace agreement between the north and the south—and these are his words—will change Sudan forever and engulf the country in a democratic and fundamental transformation." And he is right.

It is now First Vice President Kiir's great challenge and opportunity to carry forward that torch and lead his country toward that permanent and lasting peace.

I look forward to our discussion this afternoon. On behalf of the American people, I offer our hope and our optimism to the First Vice President and to the people of Sudan.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 2 p.m., with the time equally divided between the majority and the minority.

The Senator from New Mexico.

INDEPENDENT COMMISSION ON DETAINEE TREATMENT

Mr. BINGAMAN. Mr. President, I rise to speak in support of Senator LEVIN'S

amendment to create an independent commission to investigate the policies and practices relating to the treatment of what we have come to call detainees but what are, in fact, prisoners being held by the Government.

I am proud to be a cosponsor of that important amendment. I urge my colleagues to support it as well.

Let me say a word, initially, about the use of language. We sometimes use language without focusing on the implications of that language. Unfortunately, in the case of this discussion, we have fallen into the practice of referring to these individuals at Guantanamo and elsewhere as "detainees." Of course, the suggestion that someone is being detained is a lot less onerous or implies a lot less of a taking of that person's freedom than the phrase "being imprisoned." The truth is, these individuals are being imprisoned.

The amendment that Senator LEVIN has offered would have an independent commission evaluate the current practice of indefinitely imprisoning individuals at Guantanamo without ever charging them with a crime in either Federal court or under a competent military tribunal.

This commission would then report back to Congress and give us recommendations on whether we should change existing law or change policy on this set of important issues. The current practice of holding detainees or prisoners indefinitely, without affording them basic due process rights, has been widely criticized in this country and throughout the world. For a country such as ours that has consistently advocated for the rule of law, the policies of the current administration are nothing short of a major embarrassment.

Since September 11 of 2001, the administration has asserted extraordinary new powers with respect to the imprisoning of individuals suspected of being involved in terrorism. The President has argued that the Government has the authority to indefinitely imprison any person that he, the President, determines to be an "enemy combatant." They have that authority whether or not the person is a U.S. citizen. Of course, our Government has also forcefully opposed any judicial review of the President's determination in that regard.

There are over 500 people who are currently being imprisoned in Guantanamo. Many of these individuals have been held for over 3 years without being afforded the ability to challenge the basis for their detention. The administration has developed a new category of detainee, the "unlawful enemy combatant," and they have argued that neither the laws of war nor traditional criminal laws apply to these individuals. In essence, we have created a new type of prisoner who is unable to seek the protections of the Geneva Conventions or to take advantage of the rights afforded to individuals in this country under our criminal justice system or

under the criminal justice system that applies in our military. Under the current procedures, every Guantanamo prisoner is reviewed by a combatant status review tribunal to determine whether the Department of Defense believes that individual is an "enemy combatant." If a person is found to be an enemy combatant, they may be held indefinitely, although they are entitled to go before an administrative review board once a year to prove that they are no longer a threat. Of the approximately 500 prisoners at Guantanamo, 4 individuals have been charged to date. The remaining 496 or so have not been charged.

Serious concerns have been raised with regard to the rights we are affording these prisoners under the current procedures for processing the prisoners. I have repeatedly raised concerns regarding this approach. I believe that it challenges our historic commitment to the rule of law. I have never advocated that the Department of Defense release these prisoners but, rather, have said that they should be tried in the criminal justice system or they should be tried in the military justice system, but they should be tried somewhere and be given an opportunity to challenge the basis for their detention. I believe it is appropriate to ensure that they do not indefinitely remain in a state of legal limbo and are afforded basic due process rights that allow them to assert their innocence.

Last week, on November 1, there was an article in *The Washington Post* that highlighted some of the problems that occur when people are imprisoned indefinitely without recourse to any viable legal process. According to the article, there have been 36 attempted suicides at Guantanamo. Clearly, when people are desperate and have no hope, they turn to drastic measures. I ask unanimous consent that article be printed in the *RECORD* following my comments.

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

(See exhibit 1.)

Mr. BINGAMAN. I strongly believe that due process rights of some sort are at the bedrock of American values and they should not be discarded lightly, due process rights that apply even to individuals who are not citizens of this country. It is disappointing that in the eyes of the world, the United States has drifted from its longstanding adherence to the rule of law. In my view, we have an obligation to the American people to confront these difficult issues, and I believe Congress needs to act in that regard.

Establishing this independent commission to look into these prisoner issues is an important first step. There have been multiple abuse scandals over the last couple of years that have hurt our image abroad and tainted the image of a vast majority of our soldiers who serve with honor and distinction. Now the European Union is inves-

tigating news reports that the CIA is holding suspected terrorists in Soviet-era detention facilities in eastern European countries. This is a troublesome development considering the widespread reports that our own Vice President continues to urge that bipartisan legislation passed in this Senate that would prohibit the CIA from using interrogation techniques that amount to cruel and inhuman treatment in these types of facilities be deleted from legislation on its way to the President.

Our own President is in the very awkward position. During his current trip to Latin America, I saw him on television this morning trying to assure our allies in that region that the U.S. policy does not contemplate torture of prisoners. That is a sad day when we are having to publicly reassure our allies of something as basic as that.

It is time that we seriously investigated these issues and came up with policies that the American people feel comfortable with, policies that are consistent with our Constitution and with the values of the American people.

I yield the floor.

EXHIBIT 1

GUANTANAMO DESPERATION SEEN IN SUICIDE ATTEMPTS

(By Josh White)

[From the *Washington Post*, Nov. 1, 2005]

Jumah Dossari had to visit the restroom, so the detainee made a quick joke with his American lawyer before military police guards escorted him to a nearby cell with a toilet. The U.S. military prison at Guantanamo Bay, Cuba, had taken quite a toll on Dossari over the past four years, but his attorney, who was there to discuss Dossari's federal court case, noted his good spirits and thought nothing of his bathroom break.

Minutes later, when Dossari did not return, Joshua Colangelo-Bryan knocked on the cell door, calling out his client's name. When he did not hear a response, Colangelo-Bryan stepped inside and saw a three-foot pool of blood on the floor. Numb, the lawyer looked up to see Dossari hanging unconscious from a noose tied to the ceiling, his eyes rolled back, his tongue and lips bulging, blood pouring from a gash in his right arm.

Dossari's suicide attempt two weeks ago is believed to be the first such event witnessed by an outsider at the prison, and one of several signs that lawyers and human rights advocates contend point to growing desperation among the more than 500 detainees there. Lawyers believe Dossari, who has been in solitary confinement for nearly two years, timed his suicide attempt so that someone other than his guards would witness it, a cry for help meant to reach beyond the base's walls.

Two dozen Guantanamo Bay detainees are currently being force-fed in response to a lengthy hunger strike, and the detainees' lawyers estimate there are dozens more who have not eaten since August. Military officials say there are 27 hunger strikers at Guantanamo Bay, all of whom are clinically stable, closely monitored by medical personnel and receiving proper nutrition.

The hunger strikers are protesting their lengthy confinements in the island prison, where some have been kept for nearly four years and most have never been charged with a crime. The most recent hunger strike came after detention officials allegedly failed to

honor promises made during a previous hunger strike.

Military authorities do not publicly discuss individual detainees and declined to comment on Dossari. Lt. Col. Jeremy Martin, spokesman for Joint Task Force Guantanamo, said yesterday that there have been a total of 36 suicide attempts by 22 different detainees, including three in the past 20 months. Martin said all detainees are treated humanely and "any threat of injury or suicide" is taken seriously.

He added that rapid intervention in suicide attempts has prevented deaths. No detainee has died at the military prison, he said.

The protests come amid rising international concern about the treatment of detainees at Guantanamo Bay. Human rights organizations and the United Nations have complained about the lack of access to the detainees and voiced concern about allegations of physical and psychological abuse, including prolonged solitary confinement.

U.S. officials are trying to return many of the detainees to their home countries, but the process has been fraught with delays and diplomatic wrangling.

Three U.N. experts said yesterday that they would not accept a U.S. government invitation to tour Guantanamo unless they are granted private access to detainees, a concession the U.S. has not been willing to make, citing the ongoing war on terror and security concerns. Last week, the United States invited the U.N. representatives on torture and arbitrary detention to the facility, and the experts said yesterday that they hope to visit in early December. But they described their demand for access to the detainees as "non-negotiable."

"They said they have nothing to hide," Manfred Nowak, U.N. special rapporteur on torture, said yesterday at a news conference in New York. "If they have nothing to hide, why should we not be able to talk to detainees in private?"

Colangelo-Bryan said he fears that many detainees would rather die than be held indefinitely. He said he was shocked but not surprised by Dossari's Oct. 15 suicide attempt, given his "horrible ordeal."

He said he knows only that medical personnel apparently were able to revive Dossari, he had surgery and is in stable condition.

Detainees "see it as the only means they have of exercising control over their lives," Colangelo-Bryan said in publicly describing the incident for the first time. "Their only means of effective protest are to harm themselves, either by hunger strike or doing something like this."

Martin said claims that hunger strikers are near death are "absolutely false." He said the latest protest began on Aug. 8 and at one point had 131 participants but is now much smaller.

"This technique, hunger striking, is consistent with the al Qaeda training, and reflects the detainees' attempts to elicit media attention and bring pressure on the United States government," Martin said. The military also has long argued that terrorist groups have instructed fighters to invent claims of abuse if incarcerated.

Dossari has told Colangelo-Bryan that he has endured abuse and mistreatment on par with some of the worst offenses discovered at any U.S. detention facility over the past four years. In declassified notes recording the meetings, Dossari describes abuse and torture that stretches back to his arrest in Pakistan in December 2001, through the time he was turned over to U.S. forces in Kandahar, Afghanistan, and ultimately to his stay in Guantanamo Bay.

Dossari, 26, said U.S. troops have put out cigarettes on his skin, threatened to kill him

and severely beat him. He told his lawyer that he saw U.S. Marines at Kandahar "using pages of the Koran to shine their boots," and was brutalized at Guantanamo Bay by Immediate Response Force guards who videotaped themselves attacking him.

The military says the IRF squads are sent into cells to quell disturbances.

Dossari told his lawyers that he had been wrapped in Israeli and U.S. flags during interrogations—a tactic recounted in FBI allegations of abuse at Guantanamo—and said interrogators threatened to send him to countries where he would be tortured.

Dossari maintains that he is not connected to terrorism and does not hate the United States. A fellow detainee said that he saw Dossari at an al Qaeda training camp, his lawyer said.

Colangelo-Bryan is a private New York lawyer with the Center for Constitutional Rights, which represents some of the detainees. The group plans a "Fast for Justice" rally today in Washington to bring attention to the Guantanamo Bay hunger strike.

Colangelo-Bryan said Dossari has tried to commit suicide before. Prolonged solitary confinement has given him almost no contact with others and access to only a Koran and his legal papers.

"In March, he looked at me in the eye and said, 'How can I keep myself from going crazy?'" Colangelo-Bryan said.

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

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. SESSIONS. Madam President, I would like to make some general comments about our Defense bill and where we are, so I ask the chairman whether that should be in morning business?

Mr. WARNER. Yes. I thank my distinguished colleague, who is a very valued member of our committee. We are anxious this afternoon to pursue amendments. I will review at an appropriate time what we have achieved so far and what we have planned for the day. But it would be the managers' preference that as you speak to the bill, you do so in morning business because we are on a rather tight time constraint. I thank the Senator for his courtesy.

Mr. SESSIONS. I thank the chairman.

Madam President, I ask unanimous consent I be allowed to speak for up to 5 minutes in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL AND IRAQ

Mr. SESSIONS. Madam President, I believe we have a very fine Armed Services Committee. I have now been honored to serve on that committee for

a number of years. With regard to this year's authorization bill, we have had 35 hearings in the committee or subcommittee. We have undertaken to deal with complex issues facing our military. The chairman and our committee have responded repeatedly to the requests of Democratic Senators to conduct a plethora of hearings dealing with any problems they can find, such as prisoner issues and that kind of thing. We have also conducted those in the Judiciary Committee, in the Intelligence Committee, in the House committees also. We have done quite a lot, frankly, as we have gone forward.

I think it is time for us to give the highest priority, however, to assisting our men and women in uniform, men and women we have sent in harm's way to execute the policy of the United States of America—a policy that was adopted by the House of Representatives, a policy that was adopted by more than a three-fourths vote of this body. A majority of both parties voted to adopt these policies to execute force, to remove Saddam Hussein unless he complied with the U.N. resolutions, and to otherwise carry out our roles and responsibilities.

We have done that, but we need to focus on how to help those soldiers we have sent be successful in creating a good and stable and democratic government in Iraq. It is important for us, it is important for the world, and, most of all, it is important for the people there who have suffered the greatest oppression for so many years.

I think our committees have served well. I think we have worked at these issues well. We have now prepared a bill, a legislation piece, that will empower our military to be able to do their job better. I could not be more pleased than to serve under Chairman WARNER and his leadership in the committee. He works collegially with all members of the Senate in our committee to move legislation along effectively. He has worked hard to get this bill where it is today. Without strong leadership, frankly, I am not sure we would be here today.

We have passed the Defense appropriations bill, but we have not passed the Defense authorization bill. It would be unfortunate if we were not able to do so this year. Hopefully, if our colleagues will cooperate, if they have an amendment and bring it down and present it, they will be able to have all the amendments that have been promised, and we can get something done. We certainly do not need to delay or drag these matters out.

I think this issue of our involvement in Iraq needs to be recalled a bit—how we came to vote. They say—some do—there were lies that led us into this war. But all of us talked about this possible conflict for months—months. We knew it was coming. The President talked about it. We talked about it openly on the floor.

In fact, in the 1990s, when President Clinton was President, we voted and es-

tablished a policy for the United States of America. That policy was that we would effect a regime change in Iraq. And up until these hostilities occurred—for years—American and British planes, enforcing the no-fly zones to keep Saddam Hussein from oppressing the Kurds and the Shiites, flew missions over Iraq, and were fired upon, sometimes on a daily if not weekly basis.

We dropped bombs and missiles on them in retaliation, regularly, for years. In fact, we were in a state of hostility because Saddam Hussein had failed to comply with the agreements he made with the United Nations in 1991 when he was kicked out of Kuwait after he had invaded his neighbor—a peaceful, decent member of the world community.

He attacked them to seize their oil and to increase his power. We had to create a world coalition to give him a demand to remove himself from Kuwait. He refused to do so, and GEN Norman Schwarzkopf led the coalition forces that defeated his army and removed him from Kuwait. He made agreements so we would not continue marching on to Baghdad to get our hands around his neck. He made these commitments to the U.N. and agreements were reached. He did not comply with them. He was in violation of 16 different resolutions of the United Nations.

So all that was there. Also, 9/11 had occurred. And we knew he was violating the Oil-for-Food Program—a program that was set up to allow him to sell oil, which was being embargoed because of his violation of the rules and regulations of the U.N., and it allowed him to do that if the money would be utilized to take care of food and medicines for the people of Iraq because we wanted to help them.

I have been to Iraq three times. I know the chairman has been there numerous times. You can see the palaces he built with that money that was supposed to feed his people. We know he was reconstituting his military. He declared he had been the victor in that war, not the loser. It was clear he was reconstituting his military power because he desired and had not given up his fantasy ambition to dominate the Middle East.

These were the forces that were at work. These were strategic realities that occurred at that time. The Economist magazine wrote an editorial not long before we voted, and it talked about how the embargo was failing, how, in fact, the embargo was really hurting the people of Iraq more than it was hurting Saddam Hussein, but that it was falling apart; that Saddam Hussein had a systematic plan to break the embargo, and nations, such as France and others, were working behind the scenes to undermine the effect of that embargo, and that if we did not do something pretty soon, he would be unleashed again. They said the question simply is, Do we turn him loose or do