



THE CENTER FOR JUSTICE & ACCOUNTABILITY

Bringing Human Rights Abusers To Justice.

**Responses of Pamela Merchant, Executive Director
Center for Justice and Accountability to
Written Questions of Senator Richard Durbin, Chairman
Senate Judiciary Subcommittee on Human Rights and the Law
Hearing on "*No Safe Haven: Accountability for
Human Rights Violators in the United States*"
November 14, 2007**

1. What messages do you believe the United States sends perpetrators and victims of serious human rights abuses when it prosecutes or deports suspected human rights violators for immigration offenses instead of prosecuting them for the human rights abusers they committed?

When the United States "under-prosecutes" human rights abusers living in this country it sends a message of indifference to the abuses and indifference to the impunity enjoyed by human rights abusers. It also sends a mixed message about our overall commitment to human rights, the sanctity of life, and each individual's right to be free from torture and other human rights abuses.

Imagine an individual who plans and executes a complicated scheme to murder a business competitor and then goes into hiding. While in hiding, the murderer passes a bad check. Eventually, the killer is prosecuted, not for the murder, but for the misdemeanor charge of passing a bad check. When the U.S. government prosecutes human rights abusers who have committed unspeakable crimes against their own citizens for lying on their immigration forms -- it is the same as prosecuting a murderer for passing a bad check.

Under-prosecution results in impunity for perpetrators of gross human rights violations. By allowing human rights abusers to live with impunity, survivors and their communities are denied their right to truth, justice and redress. Impunity creates a culture that allows abuse to flourish; what is done without any punishment can be repeated without fear of consequences.

2. You testified that some individuals in the Liberian community in the United States who have supported the prosecution of Chuckie Taylor have received threats. What steps can the U.S. government take to ensure that victims and witnesses can assist human rights prosecutions without fearing their safety?

Federal and local law enforcement has considerable experience protecting the safety of witnesses and victims in the context of organized crime prosecutions. One suggestion is to use that expertise in the human rights context and offer access to a witness protection program and other protections that have been developed in the organized crime arena.

If a threat has occurred, at a minimum, the victim or witness should have ready access to a designated law enforcement officer who can help them on an immediate basis.

Reported threats should be documented and investigated immediately.

Asylum and derivative petitions of family members of witnesses in the Chuckie Taylor trial should be expedited so the family members are out of harm's way prior to the public testimony.

The individual witness or survivor needs to be involved in all decisions regarding their safety and the safety of their family members.

3. In your testimony, you suggested establishing a visa option to allow victims and witnesses abroad to be able to come to the United States to testify in human rights cases. Could you please elaborate on why you think it would be important to create a visa similar to the T-Visa, which allows victims of human trafficking to stay in the United States and assist the U.S. government in the investigation and prosecution of human trafficking cases, for victims and witnesses in human rights cases?

It is important to create a human rights visa option to ensure the safety of victims, witnesses and their family members and to expedite civil and criminal human rights litigation.

With regard to safety, our clients participate in our civil cases at great personal risk to themselves, their families and their colleagues in the United States and overseas. That risk is greatly heightened in the context of criminal prosecutions where the stakes are higher. Returning these individuals to the country where the abuse has occurred can lead to further abuses and even death. Failing to provide protection to their family members may also lead to further abuse or death.

For example, we have one client who is afraid to testify without assurance that his family members who remain in Africa are safe. In another case from Central America, one of our key witnesses did not testify at trial due to death threats. In the vast majority of our cases we have clients who have remained anonymous due to very real safety concerns for themselves and their family members who remain in the country where the abuse occurred (Haiti, Honduras, El Salvador, Somalia, East Timor, China).

With regard to successful prosecutions, it is extremely difficult to prosecute or litigate a human rights case if victims or witnesses are unable to get into the country to testify. Creating a new human rights visa option will help expedite human rights litigation. In our experience, each case CJA has brought against a well known human rights abuser has been hampered by the vagaries of the current system. In one case, we have been unable to depose key witnesses from Somalia because the State Department will not grant visas to allow the witnesses to travel to the United States. In other cases, the courts have been reluctant to proceed given the logistical challenges of not being able to reliably bring

witnesses into the country for testimony. In yet another case, we had to resort to intervention by Representative Pelosi's office with the U.S. Consulate in Haiti in order to get a visa for our client so she could testify in *her own trial*. Our client honored her one-entry visa and checked in with the Consulate upon her return to Haiti.

When the Victims of Trafficking and Violence Protection Act of 2000 and the Trafficking Victims Protection Reauthorization Act of 2003 were enacted they put in place a comprehensive approach to address the problem of human trafficking through protection, prosecution and prevention. The T-Visa was created as a humanitarian tool to facilitate the protection and rehabilitation of trafficking survivors. Unfortunately, very few T-Visas are granted per year and even fewer derivative visas are granted for family members. In addition T-Visas are limited to criminal prosecutions.

Another option would be an expansion of the U-Visa to cover all human rights litigation. The U-Visa was created by the Victims of Trafficking and Violence Protection Act, of 2000. It is available to non-citizens who 1) have suffered substantial physical or mental abuse resulting from a wide range of criminal activity, including torture and trafficking, and, 2) have been helpful, or are being helpful with the criminal investigation or prosecution of the crime.¹ The U-Visa provides eligible immigrants with authorized stay in the United States and employment authorization. *See*, Immigrant Legal Resource Center, U-Visas: Immigration Relief for Victims of Certain Crimes, Frequently Asked Questions. <http://www.ilrc.org/uvisa.php>. Unfortunately, while the U-Visa was enacted in 2000, the Department of Homeland Security did not issue the necessary regulation to make them available until late last year (seven years after the law was passed).²

The U-Visa in its current form is limited for a variety of reasons including, but not limited to, the fact that it only applies to crimes that violated the laws of the United States. As Ambassador Scheffer explained in his testimony on November 14, 2007, there are significant gaps in the U.S. federal law that prevent the prosecution of a wide variety of human rights crimes. In addition, the U-Visa does not apply to those who are cooperating in civil human rights cases. As the testimony on November 14, 2007 demonstrated, civil human rights cases are often the only route available to a victim of human rights abuse.

While it is our understanding that the first U-Visa has not been issued yet, it may prove a useful tool to aid in human rights prosecutions. In order to be truly effective, U-visas for derivative family members should be made a priority and issued on a timely basis.

¹ There are four basic elements for a U-Visa: 1) The immigrant has suffered substantial physical or mental abuse as a result of having been a victim of certain criminal activity; 2) The immigrant possesses information concerning that criminal activity; 3) The immigrant has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the criminal activity; and, 4) The criminal activity described *violated the laws of the United States or occurred in the United States or the territories and possessions of the United States*. 8 U.S.C. §1101(a)(15)(U) (emphasis added).

² DHS did make an interim form of relief available known as "U nonimmigrant status interim relief."

4. What factors should the U.S. government consider in determining whether to extradite or remove a human rights abuser or prosecute such human rights abusers in the United States?

As I stated in my testimony, the U.S. government should make the criminal prosecution of human rights abusers, either in the home country of the human rights violator or in the United States, a top priority. The focus of the prosecutions should be on high-level officials who were responsible for setting policy and/or overseeing large numbers of troops in their own country and have sought refuge here. As a human rights policy matter, any such prosecution should not seek the death penalty.³

The first priority should be to ensure that the human rights abuser is prosecuted for human rights abuses whether in the United States or their home country.

Extradition or removal should be a priority when the national courts in the country of origin and/or the country where the crimes were committed have 1) a functioning and fair judiciary; 2) has given sufficient assurance that the individual will be prosecuted; 3) the penalty will be commensurate with the crime; and 4) the safety of witnesses is assured.

If the national courts in the country of origin and/or the country where the crimes were committed are not able to make such assurances, then the U.S. should prosecute the perpetrator using available criminal laws such as the Torture Statute or the Genocide and Accountability Act.

If the available human rights laws in the U.S. and the home country are inadequate, the next step should be to evaluate whether a criminal prosecution could be brought under other U.S. laws, for instance, for false statements made on immigration applications.

In a situation involving extradition or removal, our government should take diplomatic and legal steps to ensure that the human rights abuser will (a) be fairly prosecuted or otherwise held accountable by the national courts in his/her home country, and (b) not be subjected to abusive treatment. It is also crucial to assess whether the national courts of the home country have the ability to carry out a fair trial before any removal or extradition is permitted to proceed.

Decisions regarding extradition or removal should be made in the context of the broader human rights agenda. Again, using a human rights framework, a threshold consideration should be whether the reintroduction of the human rights abuser to his or her home country will result in violence or will further destabilize the receiving country. Therefore, for example, we opposed plans to send Haitian death squad leader Emmanuel "Toto" Constant to Haiti because the judiciary there is, at this time, neither able nor

³ Any prosecution seeking the death penalty would not be supported by the human rights community. As a policy matter, CJA may not cooperate with a criminal prosecution if prosecutors are seeking the death penalty.

willing to prosecute him and there are grave concerns that he could further destabilize the country.⁴

5. You recommended making extrajudicial killings committed anywhere in the world by U.S. nationals or aliens found in the United States a crime under U.S. law, as we have for torture. Can you provide examples of cases where this loophole in our laws may have prevented us from holding accountable suspected human rights violators?

Yes. A striking example from the testimony on November 14, 2007 is Marko Boskic, a former member of an elite unit of the Bosnian Serb Army who participated in the infamous 1995 Srebrenica Massacre where over 1000 male civilians were killed. *See*, Statement of Marcy M. Forman, Director, Office of Investigations, Department of Homeland Security, Before the U.S. Senate Committee on the Judiciary Subcommittee on Human Rights and the Law. Despite the fact that Boskic confessed to his participation in these atrocities, the only charges the U.S. government brought against Boskic was for immigration fraud for false statements he made in his immigration application.

In addition to Boskic, CJA has brought civil cases against several perpetrators of extrajudicial killing, crimes against humanity, war crimes and other abuses who do not face criminal liability under existing United States federal criminal statutes.

Alvaro Saravia is a former Captain the Salvadoran Army who was found liable for his role in the assassination of Archbishop Romero of El Salvador in 1980. *Doe v. Saravia*, 348 F. Supp. 2d 1112 (E.D. CA 2004). Saravia came to the United States in 1985 and lived and worked in Modesto, California. He fled Modesto around the time when CJA filed the case against him. He does not have any criminal charges pending against him in the U.S. and the charges against him in El Salvador were dismissed based on the country's blanket amnesty law.

Colonel Nicolas Carranza is a former Salvadoran Vice Minister of Defense who was found liable by a federal jury in Memphis, Tennessee for the extrajudicial killing of Juan Francisco Calderon and Manuel Franco. Carranza still resides in Memphis and does not have any criminal charges pending against him in the U.S. or El Salvador. *Chavez v. Carranza*, 2:03-cv-02932-JPM (W. D. TN 2005).

Armando Fernández-Larios was an officer in the Chilean Army and an operative in Pinochet's secret service. Fernández-Larios was implicated in the assassinations of Orlando Letelier and Ronnie Moffitt in Washington, D.C. in 1976 and Chilean General Carlos Prats in Buenos Aires in 1974. He is also responsible for numerous other human rights abuses in Chile. In 2003 was found liable for the extrajudicial killing of Chilean

⁴ Constant is currently in prison in New York on state mortgage fraud charges. CJA and human rights activists from Haiti recently intervened to protest a DHS supported plea agreement that would have resulted in his immediate deportation to Haiti. Based, in part, on our intervention the judge threw out the plea agreement and noted that Constant's record of human rights abuses does not make him a candidate for leniency under the law.

economist Winston Cabello by a federal jury in Miami. *Cabello v. Fernandez-Larios*, 402 F.3d 1148 (11th Cir. 2005). Fernández-Larios pled guilty to his role in the killing of Letelier and Moffitt and, under the terms of the plea agreement, served a five-month prison term. He currently resides in the Miami area and has not been criminally charged for the killing of Winston Cabello or extradited to Chile and/or Argentina despite existing requests from both countries.

There are also examples of perpetrators implicated in well known massacres that have come to the U.S. and successfully evaded prosecution because no criminal statute applies to their crimes. From Haiti, several perpetrators of the Raboteau Massacre of 1994 subsequently came to the United States including Carl Dorélien (who was found liable in a civil suit for torture and extrajudicial killing and won \$3.2 million in the Florida lottery while living in Miami, Florida), Jean-Claude Duperval (who worked openly for Walt Disney World Resort for three years), and Herbert Valmond (who worked as a pastor in Tampa, Florida). All three of these individuals were deported to Haiti where they continue to evade prosecution.

Two perpetrators of the Accomarca Massacre in Peru also came to live in the United States, avoiding criminal liability. Telmo Hurtado Hurtado and Juan Rivera Rondón are former Peruvian military who commanded the patrol units responsible the massacre of 69 innocent civilians in 1985. These individuals have been arrested by U.S. immigration officials and are defendants in civil lawsuits brought by CJA, but they have not been charged criminally for the murders in Accomarca.

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**Responses of Pamela Merchant, Executive Director
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Written Questions of Senator Jon Kyl
Senate Judiciary Subcommittee on Human Rights and the Law
Hearing on "No Safe Haven: Accountability for
Human Rights Violators in the United States"
November 14, 2007**

1. In your statement, you said that special precautions or procedures are needed in asylum proceedings to avoid triggering memories of traumatic interrogations and that better training is needed for government employees. What precautions or procedures do you feel are needed? What training do you believe is needed for investigators, asylum officers or Immigration Judges for effective, non-threatening interview techniques?

Thank you for asking this question. It is extremely important that those involved in immigration and asylum proceedings receive adequate trainings in their work with survivors of torture and other severe human rights abuses.

As an initial matter, it should be noted that while re-traumatization cannot be avoided, it can be minimized. Even in victim-oriented, supportive surroundings, the questioning of victims about their torture history frequently triggers traumatic memories and reactions. The memories can provoke or increase flashbacks, memory loss, difficulty in concentrating, and any of the other seventeen Post-Traumatic Stress Syndrome (PTSD) symptoms—and many of these can occur in the interrogation procedure. *See*, Diagnostic and Statistical Manual of Mental Disorders IV, 309.81. In addition, panic attacks can occur, and depression of sufficient strength as to cause effective withdrawal from the questioner.

The reawakened reactions of these victims are not only terrifying to them, but also interfere with asylum proceedings. At the very least, these symptoms stop or limit proceedings. At worst, the victim's refusal to recall more, perhaps accompanied by emotional withdrawal and memory loss, may be interpreted as evidence that the victim is dissembling. Survivors, therefore, may be judged "not credible" due to a normal PTSD response. For these reasons, it is also important to understand the behavioral responses of survivors within the context of torture and/or trauma.

The asylum process is an inherent threat to a survivor's sense of safety because of the chance that they will be deported. As a result, survivors often are nervous in these proceedings and may appear to act suspiciously. Finally, interviews may simulate power dynamics from abusive interrogations causing the torture dynamic to be replayed for the survivor.

The following are some specific recommendations for the trainings of investigators, asylum officers or immigration judges:

- a. Although most investigators, asylum officers, and immigration judges receive initial orientation and training, there should be ongoing training and enhancement of skills once they are placed in a work situation. Asylum proceedings are inherently stressful for all participants and the potential for burn out is high. Regular trainings will help the interviewers deal with the stress of the trauma they confront daily and will help to counteract the irritability and cynicism which often develops in stressful situations and may result in impairment of interviewing skills and judgment.
- b. Trainings should be done by experienced mental health professionals with expertise in working with trauma survivors. There are now over 28 U.S.-based torture treatment centers with extensive experience treating survivors of trauma. *See*, National Consortium on Torture Treatment Programs, <http://ncttp.westside.com/default.view>. Most of these centers receive federal funding and are a ready source of experts in the field.
- c. Investigators, asylum officers and immigration judges should be trained in interviewing styles that minimize re-traumatization. Conventional questioning techniques and strategies may directly cause affective constriction, confusion, and/or fear in the survivor being interviewed and not provide the needed clarification of facts. (e.g. the tone and demeanor of the interviewer reflecting irritation, disbelief, exasperation).
- d. Investigators, asylum officers and immigration judges should be trained on how to avoid making assumptions and generalizations about different countries and nationalities. Assumptions interfere with accurate information gathering. It is important to learn how to ask a sufficient number of questions to facilitate explanations. Through this type of questioning, a survivor will be able to provide enough details about an event that may initially seem implausible to the interviewer.
- e. Survivors whose torture included rape may not be able to disclose a complete and coherent narrative at the interview stage. A protocol for interviewing rape survivors should specify what needs to be known about a rape – for example, pressing for details may overwhelm the survivor and result in an overwhelming emotional response such as, but not limited to: crying; emotional numbing or shutting down; or an inability to continue.
- f. Investigators, asylum officers and immigration judges exposed to victims' trauma histories may experience "secondary trauma" symptoms, similar to PTSD, from the exposure. When the interviewer has these unrecognized symptoms, they can interact with the questioned victims in such a way as to produce very inadequate asylum hearings. The training should teach interviewers how to identify and cope with secondary trauma.

Some relevant clinical articles:

Levin and Greisberg, *Vicarious Trauma in Attorneys*, 24 Pace Law Review (2003).

Fischman, *Interacting with Trauma: Clinicians' Responses to Treating Aftereffects of Political Repression*, 61 American J. Orthopsychiatry (1991).

Stark, *Posttraumatic Stress Disorder in Refugee Women: How to Address PTSD in Women Who Apply for Political Asylum Under Grounds of Gender Specific Persecution*, 11 Georgetown Immigration Law Journal, 193, 257 (1996-1997).

Parker, *Increasing Law Students' Effectiveness when representing Traumatized Clients: A Case Study*, 21 Georgetown Immigration Law Journal 163, (Winter 2007).

See also, *TORTURE Journal*, The International Rehabilitation Council for Torture Victims, <http://www.irct.org/Default.aspx?ID=61>.

2. You also indicate in your statement that special protocols need to be developed to handle the unique immigration problems of torture survivors, witnesses, and their family members. What specific protocols do you believe are needed?
 - a. Trainings. As described above, immigration officers and other government employees who work with torture survivors, witnesses and their family members should receive training to avoid re-traumatization and to help them identify the special behavioral problems of survivors.
 - b. Immigration applications for torture survivors, witnesses and their family members should be handled on an expedited basis. Delays on affirmative decisions are extensive and very problematic. At present, there are too many ways to delay final decisions and thus delay the torture survivor from reclaiming their dignity and moving on with their lives through education, employment, and reunification with their family.
 - c. Document authentication requirements should be relaxed. The existing protocols cause considerable delay in adjudication. Often, there is more time allotted to document authentication than to the substance of the asylum claim. This is both demoralizing for the survivors and ultimately impractical since it is often impossible to authenticate documents in war or repression situations. For example, in Ethiopia, deportation orders were mass-produced and not officially stamped, resulting in significant delays for those in the U.S. who cannot establish that they have an authentic deportation order. In another example, translated documents of those who have fled from one country to another often contain errors not intended or even known to the survivor. In another example, a Sudanese refugee in Chad was challenged by U.S. immigration authorities because he had some documents in Arabic and some in French with conflicting data as to gender, name, and dates.

False documentation that was obtained in order to escape violence should not be held against an asylum applicant. There is inadequate understanding of the need to take desperate measure to escape conflict situations. Survivors and their support networks

routinely have to pay bribes, purchase false documents, and hire traffickers to transport them across borders to safety.

d. Derivative applications for family members of human rights victims should be handled on an expedited basis. Family members who remain behind are often left in danger and continued risk of persecution. They should not have to wait for their spouse's asylum grant and the extended family reunification process. At present, family unification following an asylum win is a long, difficult, and expensive. For example, asylees with children are now expected to cover costs of DNA testing if they cannot produce birth certificates or family photographs. The lack of understanding about birth documentation differences from country to country, or even urban to rural is problematic. Additionally, at times of flight, few people have the wherewithal to make sure they have these documents with them.

3. Explain how you interpret section 212(a)(3)(E)(iii) of the Immigration and Nationality Act, 8 U.S.C. §1182(a)(3)(E)(iii), to include aliens who had "command responsibility" for the torture or extrajudicial killing of others.

Command responsibility is a well-established part of U.S. and international law which covers military officers or civilian superiors who knew or should have known about abuses taking place under their command and failed to take steps to stop the abuses or punish the offenders. It has been applied in criminal trials in the United States as well as in civil litigation.¹

Section 212(a)(3)(E)(iii) covers aliens who had command responsibility for the torture and extrajudicial killing of others covers commanders as a matter of statutory construction and legislative intent.

First, with regard to statutory construction, Section 212(a)(3)(E)(iii) states,

Commission of Acts of Torture or Extrajudicial Killings: Any alien who, outside the United States, has committed, *ordered, incited, assisted, or otherwise participated* in the commission of

(I) any act of torture as defined in section 2340 of title 18, U.S. Code; or

(II) under color of law of any foreign nation, any extrajudicial killing as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. §1350 note) is inadmissible. (emphasis added).

¹ See, e.g., *Yamashita v. Styer*, 327 U.S. 13-15 (1946) (Application of command responsibility doctrine in a criminal case); *Ford v. Garcia*, 289 F.3d 1283, 1288 (11th Cir. 2002) (Civil case: The elements that must be established to find a defendant liable for command responsibility are: 1) the existence of a superior-subordinate relationship between the commander and the perpetrator of the crimes; 2) that the commander knew or should have known, owing to the circumstances at the time, that his subordinates had committed, were committing, or planned to commit acts violative of the law of war; and, 3) that the commander failed to prevent the commission of the crimes, or failed to punish the subordinates after the commission of the crimes).

The plain language of the statute, "assisted, or otherwise participated in" covers command responsibility. If Congress intended the statute to be limited to direct conduct, it would have limited the language to the use of the word, "committed." Instead, Congress added "assisted, or otherwise participated in," which covers those with command responsibility in addition to those who "committed" the crime.

Second, the fact that the statute intended to cover commanders is also clear from the Section by Section Analysis included in the Senate Report. Section 212(a)(3)(E)(iii) was added to the Immigration and Nationality Act (INA) in 2004 when the 108th Congress enacted the Intelligence Reform and Terrorism Prevention Act (IRTPA). Section 212(a)(3)(E)(iii) expanded the U.S. Immigration and Customs Enforcement's authority to take action against human rights abusers to include those who participated in torture or extrajudicial killings. Prior to 2004, the only human rights abusers who could be denied admission to the U.S. were Nazi persecutors, perpetrators of genocide, and severe violators of religious freedom.

The relevant language codified in §212(a)(3)(E)(iii) of the INA was originally introduced in the 108th Congress as the Anti-Atrocity Alien Deportation Act of 2003 (AADA) which was ultimately incorporated into the IRTPA. *See*, Statement on Introduced Bills and Joint Resolutions, Senate, March 26, 2003, pages S4436-4439. The Section by Section Analysis of the AADA included in the Senate Report, clearly states that it was intended to reach those with command responsibility for torture and/or extrajudicial killing:

Second, subsection (a) would add a new clause to 8 U.S.C. Sec. 1182(a)(3)(E) that would trigger operation of the inadmissibility ground if an alien has 'committed, ordered, incited, assisted, or otherwise participated in' acts of torture, as defined in section 2430 of title 18, United States Code, or extrajudicial killings, as defined in section 3(a) the Torture Victim Protection Act. **The statutory language--'committed, ordered, incited, assisted, or otherwise participated in'--is intended to reach the behavior of persons directly or personally associated with the covered acts, including those with command responsibility.** Command responsibility holds a commander responsible for unlawful acts when (1) the forces who committed the abuses were subordinates of the commander (i.e., the forces were under his control either as a matter of law or as a matter of fact); (2) the commander knew, or, in light of the circumstances at the time, should have known, that subordinates had committed, were committing, or were about to commit unlawful acts; and (3) the commander failed to prove that he had taken the necessary and reasonable measures to (a) prevent or stop subordinates from committing such acts, or (b) investigate the acts committed by subordinates in a genuine effort to punish the perpetrators. Attempts and conspiracies to commit these crimes are encompassed in the 'otherwise participated in' language. This language addresses an appropriate range of levels of complicity for which aliens should be held accountable, and has been the subject of extensive judicial interpretation and construction. *See Fedorenko v. United States*, 449 U.S. 490, 514 (1981); *Kalejs v. INS*, 10 F.3d 441, 444 (7th Cir. 1993); *U.S. v. Schmidt*, 923 F.2d 1253, 1257-59 (7th Cir. 1991); *Kulle v. INS*, 825 F.2d 1188, 1192 (7th Cir. 1987).

See, Senate Report 108-209, Anti-Atrocity Alien Deportation Act of 2003,
http://thomas.loc.gov/cgi-bin/cpquery/?&dbname=cp108&sid=cp108gTvjf&refer-&r_n=sr209.108&item=sel=TOC_26015& (emphasis added).

We urge the U.S. Department of Homeland Security and the U.S. Department of Justice to interpret provisions of the INA that make commission of torture and extrajudicial killings a ground for removal as including command responsibility. If they refuse to adopt this interpretation, we invite Congress to amend the INA to include clearer language on command responsibility.

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