**U.S. push for Burmese war crimes probe hits Chinese wall**

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Just days after the Obama administration decided in August to support the prosecution of Burma's top military rulers for war crimes, China's U.N. ambassador, Li Baodong, paid a confidential visit to U.N. Secretary-General Ban Ki-moon's chief of staff to make his opposition clear: The U.S. proposal, he said, was dangerous and counterproductive, and should not be allowed to proceed, three U.N.-based sources familiar with the exchange told Turtle Bay.

Li's meeting with Vijay Nambiar, who also serves as Ban's Burma envoy, was the beginning of an all-out campaign by Beijing to thwart a key American initiative that was designed to raise the political costs for Burma's military junta for failing to open its Nov. 7 election to the country's political opposition. In recent months, China has mounted a high-octane, Western-style diplomatic effort, lobbying European and Asian countries to oppose the measure on the grounds that it could undermine the country's fragile political transition, according to diplomats and human rights advocates.

In contrast, the United States has pursued a more measured diplomatic strategy, sounding out top U.N. officials and potential allies about their willingness to support the prosecution of top Burmese officials, but not offering a clear plan on how to do it, these officials said. For the time being, China appears to have the upper hand, leaving the United States with little public support for the initiative from Asian and European governments, or the U.N. leadership. Even some U.S. officials are pessimistic about the prospects for establishing a commission of inquiry for the time being.

"What we are seeing is the Chinese practicing American-style diplomacy and the Americans practicing Asian-style diplomacy," Tom Malinowski, the Washington, D.C.-based director of advocacy for Human Rights Watch, told Turtle Bay. "The Chinese are making it clear what they want, and they are using all the leverage at their disposal to get what they want. And the Americans are operating in this hyper-consensual, subtle, indirect way that we associate with Chinese diplomacy."

Malinowski said the problem is less about Chinese or Russian opposition, which was to be expected, so much as a failure of U.S. leadership. "One should recognize why the Chinese are against this: They recognize it would be a consequential measure," Malinowski said. "If you allow Chinese opposition to deter you then what you are saying is that you are only going to take steps on Burma that are inconsequential."

Burma, which is also known as Myanmar, has one of the most appalling human rights records in the world. The ruling junta has detained more than 2,100 political prisoners who endure torture, inadequate medical care, and frequently death. The Burmese military has also imposed abuses on ethnic minorities, including the forced relocation of villages, forced labor, and systematic human rights abuses, including rape. The country's Rohingya Muslim community in northern Rakhine state are subject to severe bureaucratic restrictions that limit their ability to travel or marry, and which deny citizenship to Muslim children.

"There is a pattern of gross and systematic violation of human rights which has been in place for many years and still continues," the U.N. special rapporteur for human rights in Burma, Tomás Ojea Quintana, wrote in a March report, saying such crimes may amount to war crimes or crimes against humanity. "There is an indication that those human rights violations are the result of a state policy."

In August, the Obama administration separately briefed Turtle Bay and the Washington Post's John Pomfret on its plan to support Quintana's call for a commission of inquiry to investigate such abuses. Such commissions in other parts of the world, including Sudan and the Balkans, have led to war-crimes trials.

The decision reflected frustration that U.S. officials' effort to engage the regime had failed to produce democratic reforms or the release of political prisoners, including Nobel laureate Aung San Suu Kyi, who serves under house detention. The most likely venues for pursuing the creation of a commission of inquiry is through the passage of resolutions at the U.N. General Assembly's human rights committee, which is currently in session, or the U.N. Human Rights Council, which will convene early next year. Washington could also appeal to Secretary-General Ban to do it under his own authority -- although Ban, who is seeking reelection, needs China's support for a second term.

At the time, a senior U.S. official told Turtle Bay the United States anticipated the effort could take years, comparing it to the decades-long struggle to hold Khmer Rouge leaders accountable for mass killing in Cambodia in the 1970s. The official said the U.S. supports an investigation in actions perpetrated against ethnic groups and dissident organizations by Burma's senior leadership, including Burma's top military ruler Than Shwe. "Responsibility lies clearly at his doorstep," the official said.

In the first major test of the strategy, the annual debate on human rights at the U.N. General Assembly, the Obama administration was the only country that explicitly called for consideration of a commission of inquiry -- though Britain, the Czech Republic and Slovakia signaled support for holding human rights violators accountable for crimes. In contrast, China, Russia, Singapore and other members of the ASEAN nations voiced firm opposition to the proposal. Ban's report to the General Assembly on Burma's human rights record made no reference to the controversial proposal.

Rick Barton, the U.S. ambassador to the U.N. Economic and Social Council, told the General Assembly's 3rd committee, which deals with human rights, that the U.N. consideration of a commission of inquiry was "significant."

"After carefully considering the issues, the U.S. believes that a properly structured international commission of inquiry that would examine allegations of serious violations of international law could provide an opportunity for achieving our shared objectives of advancing human rights there," he said.

But another top U.S. official interviewed by Turtle Bay last week appeared more tentative about the prospects for success. The official, who spoke on condition of anonymity, characterized the U.S. diplomatic effort as "exploratory."

"We have been and continue to consult with others," the official said. "It's on the list of things that are good ideas that we want to discuss and explore, but we don't run the resolution in the General Assembly. So that's not our call. My sense is there is not much momentum right now in the General Assembly to add this new element to the resolution. But the dynamics could change over time."

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