



Statement by the American Civil Liberties Union to the 36th session of the U.N. Committee Against Torture regarding the U.S. government compliance with the Convention Against Torture

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My name is Jamil Dakwar and I am a staff attorney with the American Civil Liberties Union. I am pleased to briefly address the distinguished members of the Committee.

The U.S. has failed to meet the three primary goals of the Convention Against Torture—it has failed to prevent acts of torture and other cruel, inhuman degrading treatment or punishment, it has failed to hold accountable perpetrators and officials complicit in acts of torture and abuse, and it has failed to educate the general public and state officials about the absolute prohibition of torture in all circumstances.

The ACLU is deeply concerned that the U.S. government will continue to circumvent its obligations under the Convention by invoking its own Reservations to the treaty. These reservations were specifically relied on by the government in formulating abusive interrogation policies relating to detainees held in the “global war on terror.” In January 2005, the Attorney General designate Alberto Gonzales specifically stated that the U.S. reservation to the Convention directly resulted in the conclusion that “under Article 16, there is no legal obligation under the CAT on cruel, inhuman or degrading treatment with respect to aliens overseas.”

Although the newly enacted Detainee Treatment Act (“DTA”), attempts to close ambiguities in the extraterritorial application of the Convention, it has three main shortfalls: First, the definition of cruel, inhuman or degrading treatment in the DTA is not as broad as the Convention requires and is limited to prohibited acts under the Fifth, Eighth and Fourteenth Amendments. Second, the DTA limits interrogations to standards codified in the updated but as yet unpublished Army Field Manual 34-52—that Field Manual will not be applicable to the CIA, and is expected to be partially classified. Third, President Bush, who first threatened to veto the DTA, wrote at the time of signing the bill that he would construe the DTA “in manner consistent with the constitutional authority of the President” and his powers as commander-in-chief, implying that he may continue to authorize acts prohibited by the DTA and the Convention at least with respect to intelligence agencies.

In fact, had the U.S. fully accepted and implemented the Convention, many of the U.S. violations of the Convention on the domestic level could also have been avoided. As we have documented in our shadow report, many of the violations that were identified by the Committee in its 2000 concluding observations remain disturbingly prevalent. These violations include the use of restraining chairs and electro-stun devices such as tasers; supermaximum prison confinement for more than 20,000 prisoners; prison rape and sexual assaults that all too often go unreported and unpunished; subjecting juveniles to life without parole and other excessive punishments; and inadequate mental and health care for prisoners.

We call upon you to hold the U.S. government accountable to its legal obligations under the Convention Against Torture and most importantly, to provide further guidance to the nations of the world on the limits imposed by this Convention on the use of executive power in the pursuit of national security objectives.

Thank you.