



USA: A step in the rights direction

Senate committee vote to declassify summary of CIA detention report – a welcome move, but much more needed

The US Senate Select Committee on Intelligence (SSCI) has voted for a degree of transparency on the now long-festering injustices associated with the secret detention program operated by the Central Intelligence Agency (CIA) after the attacks of 11 September 2001.

Given the systematic failure of the US authorities to declassify and disclose anything like the full truth about the CIA rendition, detention and interrogation programs, any transparency on them is a step in the right direction.

The SSCI has voted to submit for declassification the summary and findings of its review of the secret detention program, authorized by former President George W. Bush in September 2001 and ended by President Barack Obama in 2009.

But publication of the SSCI summary and findings – hopefully without redactions – will be just one small step. The administration and Congress must do far more to ensure accountability for past violations and their non-recurrence in the future. For a start, the full SSCI report – and the CIA rendition, detention and interrogation programs themselves – should be declassified.

For years it has been known that multiple human rights violations occurred in the context of these CIA programs, including the crimes under international law of torture and enforced disappearance.

Torture and enforced disappearance were prohibited under international law long before 9/11, regardless of the sophistry of Bush administration lawyers and other officials who gave the green light to the CIA to operate its “high value detainee” (HVD) program and the “enhanced” interrogation techniques and detention conditions employed in it, and regardless of who within US officialdom knew what about the program and when they knew it.

Limited US Justice Department investigations into CIA interrogations were ended in 2012 without anyone being charged. No one has been brought to justice for authorizing or carrying out enforced disappearances or acts of torture and other forms of cruel, inhuman or degrading treatment such as “water-boarding” (effectively mock execution by interrupted drowning), sleep deprivation, and stress positions, in the course of this program.

Allegations made by some US officials that the HVD program “saved lives” have unfortunately been effective in reducing domestic calls for accountability. However, such attempted rationalizations for crimes under international law are illegitimate and constitute no justification under international law. Torture and enforced disappearance are *absolutely banned in all circumstances* and individuals responsible for these crimes must always be prosecuted and brought to justice.

National security can never be invoked to excuse or justify human rights violations including torture and enforced disappearance. Nor can it be claimed as a reason to keep secret information about such violations or to deny victims effective redress.

The USA has an international legal obligation to ensure full accountability for crimes under international law, genuine access to remedy for those subjected to them, and the whole truth about the human rights violations committed in and around this program.

The Chairperson of the SSCI, Senator Dianne Feinstein, has previously said that the Committee's full report, which runs to some 6,300 pages, contains "details of each detainee in CIA custody, the conditions under which they were detained, [and] how they were interrogated". Last month she said that declassification of the report would help to ensure that a "brutal program of detention and interrogation will never again be considered or permitted".

A number of victims of these practices have sought remedies in European countries complicit in the CIA's rendition and secret detention programs. In Poland and Lithuania, alleged to have hosted secret CIA detention facilities, criminal investigations into state actors' complicity in the US programs are ongoing.

An inquiry into the torture and other ill-treatment of foreign detainees abroad – including some victims of the CIA rendition and secret detention programs – by the parliamentary Intelligence and Security Committee (ISC) of the United Kingdom (UK) has also been authorized by the UK government. In Italy, Italian and US operatives have been convicted in the kidnapping case of a rendition victim, who was subsequently handed over to the CIA and transferred to Egypt, where he alleged that he was tortured.

Sweden has awarded compensation to two rendition victims who were handed over to the CIA and subsequently tortured in Egypt. The European Court of Human Rights has ruled against Macedonia for its role in the illegal apprehension, detention, enforced disappearance, and transfer to risk of torture of another victim of the CIA program. There are currently four other cases pending in the European Court – against Poland, Lithuania, and Romania – for their roles in the CIA secret detention program.

Efforts to seek accountability in Europe have been riddled with claims by governments that national security requires secrecy when it comes to the CIA program. Despite no cooperation from the US government, however, there has been some forward movement in Europe. The US government must be pressed for progress in the USA, which holds the key to the truth about the CIA programs and the attendant abuses.

While the Obama administration has broken from the interrogation policies pursued by the USA during the Bush years and has made a clear commitment to ending the practice of torture, questions remain as to whether this is a permanent break.

Presidential orders set the policy lead on detainee treatment in the years after 9/11, and today the policy also has been set by presidential order. While interrogation policy now more closely aligns with international law on detainee treatment, concerns about interrogations under the Army Field Manual remain and the question as to what happens when a President with a different approach takes office remains an open one.

In other words, the door to torture by the USA has not been bolted shut. As an important step toward ensuring no recurrence of these violations, the US authorities must end the secrecy, impunity and obstruction of remedy associated with this now defunct program.

The USA regularly demands human rights accountability from other countries. It must make the same demand of itself and see it through.