



USA SHOULD 'PUT ITS MONEY WHERE ITS MOUTH IS' AND IMPLEMENT UN COMMITTEE AGAINST TORTURE FINDINGS

Two decades after the USA ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), and in the treaty's 30th anniversary year, the USA should finally put its long-stated commitment to UNCAT principles into practice.

A good place for it to start is to implement the recommendations issued today by the UN Committee Against Torture, following its scrutiny of the USA's record under UNCAT earlier this month in Geneva.

The Committee's concluding observations cover a range of issues, from indefinite detention and military commission trials at Guantánamo to long term solitary confinement in US prisons; use of excessive force by police, including the use of stun weapons, to interrogations under Appendix M of the Army Field Manual; from the use of life imprisonment without the possibility of parole for under 18-year-olds to the lack of thorough investigations and remedy in relation to violations of UNCAT. There are many others recommendations, including urging the USA to establish a moratorium on executions with a view to abolition of the death penalty, and to ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

Amnesty International believes that among the USA's most urgent priorities must be to ensure full accountability for the torture and other human rights violations that occurred in the secret detention programme operated by the Central Intelligence Agency (CIA) after the attacks of 11 September 2001. The Committee made clear its concern about the USA's "ongoing failure to fully investigate allegations of torture and ill-treatment" in this context and called on the US authorities to ensure that the "alleged perpetrators and accomplices are duly prosecuted, including persons in positions of command and those who provided legal cover to torture, and, if found guilty, handed down penalties commensurate with the grave nature of their acts". At the same time it calls upon the USA to provide "effective remedies and redress to victims", as required under UNCAT.

Amnesty International highlighted the impunity relating to this programme in its [own submission](#) to the Committee, arguing that the lack of truth, remedy and accountability represented a very serious challenge to the international human rights system, including respect for UNCAT.

In familiar fashion, the USA promoted itself to the Committee against Torture as having played a leading role in the adoption of UNCAT and as a long-standing champion of its principles. It sent a large delegation of officials to Geneva to defend and explain the USA's record under the treaty.

Familiarity can breed contempt, however, and the USA will have to work hard to persuade people that, as it told the Committee, it treats this treaty reporting process as one of genuine "self-examination" with the aim of informing "practical and effective human rights strategies by the US government", rather than just a public relations exercise.

After all, the last time the US government appeared before the Committee, in 2006 – making similar assertions about the USA's anti-torture credentials – it had been resorting, in systematic fashion, in the context of what it was then calling the "war on terror", to conduct that was entirely contrary to UNCAT – including authorizing at the highest levels of government conduct that constituted torture and enforced disappearance, crimes under international law. This time, even as it was again promoting itself as a champion of UNCAT it was actively blocking accountability, redress and the truth about violations of the treaty.

In the findings issued today, the Committee expressed its serious concern at the “use of State secrecy provisions and immunities to evade liability”, and said it was particularly disturbed at the “draconian system of secrecy surrounding high value detainees that keeps their torture claims out of the public domain”. Among other things, the Committee called for the “declassification of torture evidence”, in particular accounts of torture provided by Guantánamo detainees (who include several detainees previously held in secret CIA custody, some for years). It has now also added its voice to that earlier this year of the UN Human Rights Committee in calling on the USA to declassify and release the Senate Select Committee on Intelligence (SSCI) report into the CIA secret detention programme. Only the summary has been declassified – but its publication has been delayed for months because of disagreements on how much text is redacted.

Earlier this week, seven UN experts – whose mandates include torture, enforced disappearances, arbitrary detentions, truth and reparation – called on President Barack Obama to ensure release of the SSCI summary report “in the most complete and comprehensible form possible, allowing the victims and the public to fully understand the facts”. They reiterated the US obligation to ensure that all allegations of torture and enforced disappearance are investigated, adding that “accountability and appropriate remedies for the victims are essential for such gross human rights violations”.

Amnesty International continues to call for the full 6,600 page SSCI report to be declassified and made public, with no redactions that obscure information about human rights violations.

The secret detention programme was built on the USA’s refusal to apply international standards to its own conduct, and its exploitation of the “declarations, reservations and understandings” (RUDs) it submitted upon ratification of various human rights treaties, including UNCAT. The Committee Against Torture has again called for removal of such conditionality, as it did after review of the USA’s earlier reports in 2000 and 2006. As the Committee pointed out, and Amnesty International did in its submission to the Committee, the USA’s reservation to article 16 had featured in the previously secret legal memorandums “as part of deeply flawed legal arguments used to advise that interrogation techniques, which amounted to torture, could be authorized and used lawfully”. The Committee expressed its “dismay” at this fact, and its continuing concern that, although the memorandums have been withdrawn, the reservation to article 16 has not.

The administration should work with the Senate to ensure speedy removal of these RUDs, and full implementation of UNCAT, including enacting a federal crime of torture “in full conformity with article 1 of the Convention”, as the Committee put it. These measures should be seen as necessary ends in themselves, but also as an indication to the world that the USA will apply the same standards to itself that it so often demands of others.

An aspect of the USA’s session which received some attention at the time was the Obama administration’s decision that, “in contrast to positions previously taken by the US government”, the USA was now taking the stance that “US obligations under article 16... do not just apply exclusively inside the territorial United States”, but also to places outside the USA “that the US government controls as a governmental authority.” The delegation clarified that the USA considers itself to currently exercise such control at the US naval base at Guantánamo Bay and with respect to US-registered ships and aircraft. The Committee welcomed this move in its concluding observations, but reiterated that the phrasing “any territory” in UNCAT “refers to prohibited acts committed not only on board a ship or aircraft registered to a State party, but also during military occupation or peacekeeping operations and in such places as embassies, military bases, detention facilities, or other areas [over] which a State party exercises factual or effective control”.

2014 has been a year in which the USA has come up in front of three treaty monitoring bodies, the Committee Against Torture, the Human Rights Committee, and the Committee on the Elimination of Racial Discrimination. In each case, the USA has been presented with numerous recommendations from these expert bodies as to steps the USA should take to implement the treaties it has ratified.

The USA should immediately set about meeting these recommendations, and not let them gather dust as on previous occasions.