



human rights *first*

American ideals. Universal values.

BLUEPRINT

How to Rebuild a Durable Consensus against Torture in the United States

BLUEPRINT FOR U.S. GOVERNMENT POLICY

DECEMBER 2014

Human Rights First

American ideals. Universal values.

On human rights, the United States must be a beacon. Activists fighting for freedom around the globe continue to look to us for inspiration and count on us for support. Upholding human rights is not only a moral obligation; it's a vital national interest. America is strongest when our policies and actions match our values.

Human Rights First is an independent advocacy and action organization that challenges America to live up to its ideals. We believe American leadership is essential in the struggle for human rights so we press the U.S. government and private companies to respect human rights and the rule of law. When they don't, we step in to demand reform, accountability and justice. Around the world, we work where we can best harness American influence to secure core freedoms.

We know that it is not enough to expose and protest injustice, so we create the political environment and policy solutions necessary to ensure consistent respect for human rights. Whether we are protecting refugees, combating torture, or defending persecuted minorities, we focus not on making a point, but on making a difference. For over 30 years, we've built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership.

Human Rights First is a nonprofit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding.

© 2014 Human Rights First
All Rights Reserved.

This report is available online at humanrightsfirst.org

WHERE TO FIND US

75 Broad Street, 31st Floor,
New York, NY 10004

Tel: 212.845.5200
Fax: 212.845.5299

humanrightsfirst.org

805 15th Street, N.W., #900
Washington, DC 20005

Tel: 202.547.5692
Fax: 202.543.5999

1303 San Jacinto Street, 9th Floor
at South Texas College of Law, Houston, TX 77002

Tel: 713.955.1360
Fax: 713.955.1359

“Torture and abusive treatment violate our most deeply held values, and they do not enhance our national security—they undermine it by serving as a recruiting tool for terrorists and further endangering the lives of American personnel. Furthermore, torture and other forms of cruel, inhuman or degrading treatment are ineffective at developing useful, accurate information. As President, I have therefore made it clear that the United States will prohibit torture without exception or equivocation.”

President Obama,
Address at the National Archives
May 21, 2009

Introduction

The United States' use of torture and cruel, inhuman, or degrading treatment in the so-called 'enhanced interrogation program' after the 9/11 terrorist attacks was misguided and counterproductive. It violated domestic and international law, compromised the United States' global commitment to human rights, undermined counterterrorism efforts, bolstered the recruiting efforts of terrorist groups, and provided little—if any—significant intelligence that was necessary to disrupt terrorist plots. For these reasons, President Obama signed an executive order on his second day in office in 2009 ending the use of torture and other cruel, inhuman, or degrading interrogation techniques. While this step ended the program of abusive interrogations, if the government does not put additional legislative and administrative safeguards in place, the United States could return to the use of official cruelty.

Existing criminal statutes, both state and federal, prohibit the use of torture: 18 U.S.C. § 2340A specifically prohibits torture outside the United States; 18 U.S.C. § 2441, the War Crimes Act, prohibits war crimes including torture; and acts of torture domestically may fall under federal or state laws prohibiting battery, assault, mayhem, or other crimes. Furthermore, the United States is a party to the Convention Against Torture, the International Covenant on Civil and Political Rights, and the Geneva Conventions, all of which also prohibit torture and acts of official cruelty.

However, though these laws were in place after the 9/11 attacks, lawyers in the White House, Department of Justice, Department of Defense, and CIA were able to skirt them to advise that so-called 'enhanced interrogation techniques'

were legal, and allow policymakers to authorize their use. Many of these techniques were even reauthorized *after* passage of the Detainee Treatment Act in 2005, which prohibited abuse short of torture that rose to the level of cruel, inhuman, or degrading treatment. If a future president were to rescind the anti-torture executive order—as candidate Mitt Romney's national security advisers recommended during the 2012 campaign—there would be no clear federal statutory barrier to prevent a reauthorization of torture or other forms of abusive treatment.

Moreover, proponents of enhanced interrogation techniques ('EITs') continue to argue, incorrectly, that the techniques are safe, lawful, and effective—and that they have played a pivotal role in counterterrorism successes such as locating Osama Bin Laden. Fictional but influential TV shows and movies such as "24" and "Zero Dark Thirty" further reinforce this flawed view. Unsurprisingly, polls show that a majority of Americans continue to favor the use of 'harsh' interrogation methods for national security purposes.

The Senate Select Committee on Intelligence's (SSCI) study on the CIA's use of abusive interrogation techniques after 9/11, which was released in December 2014, demonstrated just how far the official use and justification of torture can go. Not only did the CIA use techniques on detainees that were much more egregious than those authorized, but it also systematically misled the White House, Congress, the Department of Justice, the National Security Council, and the American people on their use and effectiveness. The duration and frequency with which detainees were subject to techniques like waterboarding, stress positions, and sleep deprivation were much more extreme than previously thought, and detainees were also

subject to procedures like rectal rehydration—inserting oversized tubes in detainees’ anuses—which the CIA claims was medically necessary but which doctors have said has no medical benefit.¹

Furthermore, there is no evidence that the CIA gained useful information because of these techniques—the CIA often subjected detainees who had been cooperating with normal questioning to torture, causing them to stop providing reliable information, or attributed information gained from rapport-building techniques to the use of EITs.² Since the report’s release, many seasoned interrogators and military leaders have stepped forward to say that information gained during torture is not reliable, that detainees will say anything to make the torture stop, and that the use of torture makes the country less safe.³

Despite these shocking revelations about the depravity and ineffectiveness of the program, there is a high risk that a future administration could authorize a new abusive and unlawful interrogation program if there is not concrete action from the administration and Congress.

State-sanctioned torture goes against everything the United States stands for as a democracy and as a nation that respects human rights. As retired U.S. Army Brigadier General and Army Intelligence School instructor David Irvine put it, torture is “absolutely anathema to democracy.”⁴

This Blueprint offers recommendations for the Congress and the Obama Administration to solidify the U.S. prohibitions against torture and cruel treatment and help rebuild the United States’ role as a global leader for the worldwide eradication of torture.

SUMMARY

The following steps are necessary to create a legal and political counterterrorism framework whereby all acts of torture are criminalized and torture or cruel, inhuman and degrading treatment cannot be justified under any circumstances.

FOR CONGRESS

- Pass legislation that affirms, clarifies, and reinforces the prohibition against torture, and that strengthens efforts to prevent it.
 - Clarify the definition of what constitutes torture and ensure that it is in line with the definition in the United Nations Convention Against Torture (CAT).
 - Clarify that the prohibition against torture applies in all circumstances.
- Declassify the Senate Select Committee on Intelligence’s full study on the post-9/11 CIA detention and interrogation program.
- Mandate more thorough judicial review of state secrets claims.

¹ Physicians for Human Rights, Fact Sheet: Rectal Rehydration and Rectal Feeding, <http://physiciansforhumanrights.org/library/other/fact-sheet-rectal-hydration-and-rectal-feeding.html>.

² See, e.g., Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency’s Detention and Interrogation Program [hereafter SSCI Report] p. 76, available at <http://www.intelligence.senate.gov/study2014/sscistudy1.pdf>

³ Human Rights First Media Briefing Call, December 9, 2014, available at <http://www.humanrightsfirst.org/sites/default/files/120914-Torture-Transcript.pdf>. See also Statement of National Security, Intelligence, and Interrogation Professionals, October 1, 2014, <http://www.humanrightsfirst.org/sites/default/files/Torture-Statement-09-30-14.pdf>.

⁴ Ibid.

- Mandate that all U.S. government agencies and the military abide by a single standard of interrogation that prevents the use of torture or cruel, inhuman, or degrading treatment during an armed conflict.
- Prohibit the CIA from operating detention facilities or detaining individuals, and limit its function with respect to those activities to analysis and intelligence-gathering.
- Mandate that the government must notify the International Committee of the Red Cross (ICRC) of any individual in the custody of the U.S. government and allow the ICRC to access detainees within 14 days.
- Pass legislation to require video recording of all interrogations.

FOR THE ADMINISTRATION

- Support clarifying and reinforcing existing anti-torture legislation.
- Mandate that all interrogations of detainees held by any department or agency of the U.S. government be video recorded, and modify current DOJ policies that allow interrogators to avoid recording requirements if the interrogation relates to national security.
- Clarify the extraterritorial scope of the CAT.
- Investigate and appropriately sanction CIA employees who used techniques during interrogations that were not authorized by administrative regulations and guidelines.
- Repeal Appendix M of the Army Field Manual.
- Direct the attorney general to explain why the Justice Department has not pursued cases of criminal conduct related to detainee abuse.
- Declare a moratorium on rendition to countries where torture is systematic, and publicize reviews of rendition practices and diplomatic assurances.
- Sign, and seek advice and consent of the Senate to ratify, the International Convention for the Protection of all Persons from Enforced Disappearances and the CAT Optional Protocol.

Recommendations

FOR CONGRESS

There are several current statutory provisions that contribute to implementing the universal prohibition against torture. 18 U.S.C. § 2340 prohibits torture outside United States; the War Crimes Act prohibits war crimes including torture; the Detainee Treatment Act of 2005 prohibits cruel, inhuman, and degrading treatment; and the U.S. government has argued that state and local laws against, for example, assault, battery, or mayhem, render torture fully illegal in the United States.⁵

These statutory prohibitions, however, did not prevent the authorization and use of torture and other forms of abusive interrogations—so-called ‘enhanced interrogation techniques’—in the aftermath of the 9/11 attacks. Even after the Detainee Treatment Act was passed in 2005 the administration continued a policy that allowed the use of torture and cruel, inhuman, or degrading treatment for two more years.

The Obama Administration has closed some of those gaps through executive action. But the events since 9/11 have eroded the national consensus against torture, and to rebuild that consensus, Congress should pass legislation that affirms, clarifies and reinforces the prohibition against torture, including further steps to prevent it. The following recommendations are guidelines for congressional action.

Congress should:

- **Pass legislation that affirms, clarifies and to reinforces the prohibition against torture, and that strengthens efforts to prevent it.** Congress should reaffirm that current legislation prohibits any use of torture and cruel, inhuman, or degrading treatment, with no exceptions, and confirm that the so called ‘enhanced interrogation techniques’ used against detainees in the past constituted torture or illegal cruel, inhuman, or degrading treatment.
- **Clarify the definition of what constitutes torture.** The United States ratified the Convention Against Torture (CAT) in 1994. The CAT requires states to enact measures to prohibit and prevent the use of torture or cruel, inhuman, or degrading treatment. However, the definition of torture in the CAT is slightly different from the definition in 18 U.S.C. § 2340 and from that contained in the War Crimes Act. For example, the CAT and the War Crimes Act both include language stating that torture is prohibited when used for certain purposes, including to obtain a confession or for intimidation or punishment. However, the language in each differs slightly, and 18 U.S.C. § 2340 does not mention purposes of torture. The definition of torture in 18 U.S.C. § 2340, however, specifies that ‘torture’ includes the application of mind-altering substances, the threats of such substances, and the threat of imminent death or severe pain and suffering. Neither the CAT nor the War Crimes Act contains these specifications. The Detainee Treatment Act broadly prohibits cruel, unusual, or

⁵ Periodic Report to the Committee Against Torture, August 2013, ¶ 9, <http://www.state.gov/documents/organization/213267.pdf>.

degrading treatment, but does not clearly define what constitutes this treatment.

While these differences may seem minor, the fact that each law sets slightly different standards could allow interrogators to hold themselves to whichever standard best suits their purposes. For example, officials could attempt to justify threatening detainees with imminent death or serious bodily harm by arguing that such treatment is not explicitly prohibited under the CAT, and does not reach the CAT's standard of 'serious mental pain and suffering' or cruel, inhuman, or degrading treatment.

Congress should set a clear definition of torture that is consistent with that in international law. At the very least, this definition should encompass the definition of torture in the CAT without restricting or narrowing its scope.⁶

Furthermore, memos by Bush Administration officials stated that so-called 'enhanced interrogation' techniques, including sleep deprivation, the use of stress positions, and 'waterboarding,' did not constitute torture. However, medical and legal experts have determined that these techniques do inflict severe physical and mental trauma.⁷ Congress should

clarify that these specific acts constitute torture or, at minimum, cruel, inhuman, or degrading treatment.

- **Clarify that the prohibition against torture applies in all circumstances.**

In 2003, the Justice Department Office of Legal Counsel drafted several legal opinions advising that the prohibition on torture did not apply to detainees in U.S. custody who were designated 'unlawful enemy combatants'—a category that does not exist in international law. Congress should specify that the prohibition against torture applies to all individuals and in all situations, regardless of whether the United States is involved in an armed conflict, at peace, or at any state in between.

- **Declassify the Senate Select Committee on Intelligence's full study on CIA enhanced interrogation techniques.**

The executive summary, findings, and conclusions of the SSCI report have provided invaluable insight into the dangers of the use of torture and cruel, inhuman, and degrading treatment. However, in order to fully understand the extent of the CIA's abuses and better understand how these techniques were authorized, the SSCI should seek declassification and release of the full study.

- **Mandate more thorough judicial review of state secrets claims.**

In the past, the U.S. government has invoked the state secrets privilege in cases challenging

⁶ For example, Congress could pass regulation stating that the Army Field Manual applies to all U.S. agencies and citizens, and ensuring that the definition of torture aligns with that in international law. Congress could also specify which acts are prohibited in domestic torture prohibitions to ensure that they, at a minimum, comply with the CAT definition.

⁷ Human Rights First and Physicians for Human Rights, "Leave No Marks: Enhanced Interrogation Techniques and

the Risk of Criminality," August 2007, available at <http://www.humanrightsfirst.org/wp-content/uploads/pdf/07801-etn-leave-no-marks.pdf>.

torture and rendition to torture, seeking dismissals of lawsuits at very preliminary stages before evidence can be produced. Courts have accepted the government's claims of risk to national security without independently reviewing the information in order to assess any actual risk from disclosure. This practice has impinged upon the right of individuals to seek and obtain, and the obligation of the state to provide, redress for human rights violations, including those resulting from government misconduct. Congress should pass legislation like the proposed State Secrets Protection Act,⁸ which provides that the government may only prevent the disclosure of information if it can show that disclosure is reasonably likely to cause significant harm to the national defense or diplomatic relationships of the United States. Legislation should also require courts to use the most limited measures possible to protect legitimate state secrets, such as redaction rather than exclusion of evidence or dismissal of cases. Where cases cannot proceed due to exclusion of state secrets, alternate means of redress must be provided.

- **Mandate that all U.S. government agencies and the military abide by a single standard of interrogation that prevents the use of torture or cruel, inhuman, or degrading treatment during an armed conflict.** Currently, the CIA is only bound to follow interrogation practices in the Army Field Manual during an armed conflict, pursuant to President Obama's Executive Order 13491⁹—an order that

could be rescinded by a subsequent president. The dangers of this precarious prohibition are demonstrated by the CIA's extensive use of torture in the wake of 9/11, including on detainees who had cooperated with other interrogation methods.¹⁰ Even the authors of legal memos authorizing the use of EITs thought some of the techniques used—such as extensive sleep deprivation and rectal rehydration—were excessive.¹¹

To make sure that these protections remain in place in the future, Congress should require that all U.S. entities and actors comply with a single standard of interrogation methods that will prevent the use of torture and cruel, inhuman and degrading treatment. Congress could do this by expanding the requirement in the Detainee Treatment Act that limits Department of Defense interrogations to those authorized in the Army Field Manual to the CIA.

- **Prohibit the CIA from operating detention facilities or detaining individuals, and limit its function with respect to those activities to analysis and intelligence-gathering.** Under the anti-torture executive order, the CIA is prohibited from operating detention facilities, as detention and interrogation are not core competencies of the CIA, and the secretive nature of CIA operations could enable abuse. Congress should prohibit the CIA from operating detention facilities or taking custody of detainees. The CIA could still

⁸ H.R. Res 3332, 113th Congress (2014).

⁹ Exec. Order No. 13491, 74 F.R. 4893 (2009).

¹⁰ See e.g. Zubaydah case, SSCI report p. 208.

¹¹ Andy Sullivan, "Even Torture Memo Author John Yoo Thinks Rectal Feeding Was Illegal," *Huffington Post*, Dec. 14, 2014, http://www.huffingtonpost.com/2014/12/14/john-yoo-torture-report_n_6323360.html.

participate in interrogations in a support role, as it currently does with the High-Value Detainee Interrogation Group (HIG).

- **Mandate that the government must notify the ICRC of any individual in the custody of the U.S. government and allow ICRC to access detainees within 14 days.** For several years, the International Committee of the Red Cross (ICRC) was denied access to some Guantanamo detainees, in a deliberate move to subject these detainees to further harm by increasing their isolation. The ICRC was also denied access to detainees in the secret CIA program. Statutorily mandating ICRC access to detainees in the custody of the U.S. government would promote transparency and deter abuse. Current policy and practice require that the government notify the ICRC within 14 days of detainees being taken into custody. However, this requirement can be waived if there is a ‘military necessity’ to do so. Congress should strengthen the policy and mandate that the ICRC have access to detainees within 14 days, without a waiver for ‘military necessity.’ This mandate should apply to any situation in which any individual is held in the effective control of the U.S. government or its agents, whether or not he or she is held in a formal detention center.
- **Require video recording of interrogations.** This mandate should cover all custodial interrogations of persons detained by any U.S. agency. The ready availability of nonintrusive audiovisual technology makes this a relatively simple and sustainable requirement to implement under a broad range of circumstances. The video recording of intelligence interrogations would strengthen intelligence and evidence

gathering by allowing the careful examination (both contemporaneously and post-interrogation) of body language and source collector interaction, and by providing training material to teach more effective interrogation techniques. It would also help to deter abuse while protecting interrogators from spurious claims of abuse.

FOR THE ADMINISTRATION

The Obama Administration has a strong interest in using the next two years to decisively close off the possibility of future administrations reinstating a torture program or practices constituting torture or cruel, inhuman or degrading treatment as part of U.S. counterterrorism efforts. It should lead in rebuilding a durable consensus against torture by both encouraging Congress to enact the legislation described above and by working with government agencies to develop internal policies that prohibit and prevent torture. The president should also take steps to further close the regulatory and administrative loopholes that have been interpreted to justify torture despite domestic laws that prohibit it.

The administration should:

- **Support clarifying and reinforcing existing anti-torture legislation.** As discussed above, comprehensive, clear anti-torture legislation is crucial to eliminating the use of torture by the United States. The administration should work with Congress to ensure that the United States’ anti-torture legislation is clear and in accordance with international law.
- **Mandate that all interrogations of detainees held by any department or agency of the U.S. government be video recorded, and modify current DOJ policies that allow interrogators to avoid**

recording requirements if the interrogation relates to national security.

In May 2014, the DOJ adapted its policy of electronically recording statements made by individuals in U.S. government custody to better encourage the creation of electronic records. While this is a positive development, the policy specifies that recording is not required when the interrogation is conducted to gain information related to national security or public safety, or where questioning relates to methods, security, or sources that could detrimentally affect public safety. This exception is unnecessary and should be repealed. All interrogations should be recorded to ensure that they are carried out in accordance with anti-torture legislation and international law. The DOJ can, on a case-by-case basis, prevent information in such recordings from being made public where the disclosure of such information would be likely to cause concrete and specific harm to national security interests.

- **Clarify the extraterritorial scope of the CAT. The Obama Administration made several important clarifications in the U.S. position on the Convention Against Torture at the 2014 review of the United States before the Committee Against Torture, when it confirmed that being in war does not suspend the applicability of the CAT and that the CAT’s application is not limited to U.S. territory.** The administration’s statement that key provisions of the CAT, particularly the prohibition on cruel, inhuman and degrading treatment, apply wherever the United States has ‘control as a government authority’ clarified that the CAT applies on U.S. controlled ships and aircraft and at the Guantanamo Bay detention facility. This test

left unclear if the United States considers certain provisions of the CAT applicable in other United States-controlled areas—such as overseas military bases or CIA ‘black sites’—or how the administration will determine whether the United States has ‘control as a government authority.’ The Obama Administration should clarify this in light of recent history and leave no ambiguity as to whether all of the CAT’s prohibitions apply wherever the United States is in a position to take meaningful action to enforce them.

- **Investigate and appropriately sanction CIA employees who used techniques that were not authorized by CIA regulations and guidelines during interrogations.** The executive summary of the SSCI report contains information about CIA employees who used techniques during interrogations that were not authorized by their superiors or by legal memoranda outlining what techniques were legally permissible, and that some officers misrepresented the techniques they used when reporting to their superiors.¹² These individuals are a danger to the country’s continued intelligence gathering efforts, national security, and the CIA as a whole. The administration should mandate an investigation of CIA employees who failed to respect applicable guidelines on interrogation and ensure that any such employees are appropriately sanctioned, with consequences up to and including termination of employment.
- **Repeal Appendix M of the Army Field Manual.** Appendix M allows interrogators to

¹² SSCI Report p. 56.

use, in special circumstances, a technique called ‘separation.’ While this technique is intended to prevent a detainee from communicating with other detainees, the appendix permits extreme isolation—including the use of goggles, blindfolds, and earmuffs to impede detainees’ senses—as well as sleep deprivation and manipulation, allowing interrogators to prevent detainees from sleeping more than four hours every 24 hours. There is no prohibition on how many such 24-hour periods can follow immediately after each other or when the four hours of sleep must be allowed, so it is possible that detainees may be subject to 40-hour periods of sleeplessness, followed by only eight hours of sleep, repeated indefinitely. The United States’ delegation, during the review in Geneva of its compliance with the CAT, claimed that it would not advance such an interpretation of Appendix M. To remove any ambiguity, Appendix M should be repealed, or modified so there is no permissible interpretation that could allow abuse.

- **Direct the attorney general to explain why the Justice Department has not pursued cases of criminal conduct related to detainee abuse.** In February 2008, the attorney general appointed Assistant U.S. District Attorney John Durham to conduct an investigation into destruction of CIA interrogation videotapes. In August 2009 the attorney general expanded this mandate to allow investigation into treatment of detainees. Durham examined 101 cases, but in June 2011 the attorney general announced that the Justice Department would only continue to pursue two of these cases, stating that “expanded criminal investigation of the remaining matters is not warranted.” In

August 2012 the Department also closed the two remaining cases because “the admissible evidence would not be sufficient to obtain and sustain a conviction beyond a reasonable doubt.” Despite many revelations about CIA conduct in the SSCI report, the Justice Department announced that it would not be revising this decision in the wake of the report’s release, and it “did not find any new information that [it] had not previously considered.”¹³

The attorney general should release a comprehensive assessment that details specifically why the Department could not move forward on these cases, given that there is overwhelming evidence that interrogators used techniques beyond any official guidance, with abuse, torture, and even death resulting. Furthermore, the administration should declassify and release all documents from relevant U.S. agencies that contain information on U.S. interrogation policy and practice, including, but not limited to, ‘enhanced interrogation techniques.’

- **Declare a moratorium on renditions to countries where torture is systemic, and publicize reviews of rendition practices and diplomatic assurances.** The United States has used renditions, the extrajudicial transfer of terrorism suspects from U.S. government custody, for several years, essentially to ‘outsource’ abusive interrogation and detention. Among other

¹³ Charlie Savage, “U.S. Tells Court That Documents from Torture Investigation Should Remain Secret,” *New York Times*, Dec. 10, 2014, available at <http://www.nytimes.com/2014/12/11/us/politics/us-tells-court-that-documents-from-torture-investigation-should-remain-secret.html>.

sources of information, the U.S. government obtains secret diplomatic assurances from receiving governments (even those with long records of torture) that transferees will not be tortured or abused to determine if it is ‘more likely than not’ that an individual will be tortured when transferred to a country. These diplomatic assurances—also used problematically in immigration and other contexts—have proven too often to be hollow, and individuals have in fact been tortured upon transfer. While President Obama established an interagency task force to investigate these procedures after he took office, the results of this task force have been kept secret and the administration still relies on diplomatic assurances. To protect against transfers to torture in the future, the administration should:

- Suspend extrajudicial transfers of individuals in U.S. government custody abroad to any other country where treatment of prisoners in a fashion consistent with the standards described above cannot be assured. Renditions to any country where torture has been a systemic human rights problem must be absolutely prohibited.
- Make the results of the interagency task force public.
- Cease the use of diplomatic assurances from governments that are not independently monitored by organizations that report their findings publically or from countries that breach the terms of their agreements with independent organizations and do not grant them full access.
- Where diplomatic assurances are used, disclose the text of the assurances to

the individuals who are to be transferred and their attorneys.

- **Sign, and seek advice and consent of the Senate to ratify, the International Convention for the Protection of all Persons from Enforced Disappearances and the Optional Protocol to the CAT.**

Ratification by the United States of these two treaties will send a clear message to the world that the United States is serious about upholding its humane treatment obligations:

- Ratification of the International Convention for the Protection of all Persons from Enforced Disappearances would subject the United States government to the treaty’s strict prohibition on disappearances: “no exceptional circumstances whatsoever,” including war, the threat of war, or a public emergency, may be used to justify enforced disappearances.

The Optional Protocol is a preventive safeguard against torture and abuse. Ratification would require the U.S. government to allow periodic visits by international expert and national bodies to any place under U.S. jurisdiction and control where persons are deprived of their liberty

Conclusion

Although ended by the Obama Administration in 2009, the use of torture and cruel, inhuman, or degrading treatment by the U.S. government could be authorized again unless additional important safeguards are established. In fact, as the administration launches its new strategy against brutal extremist groups such as Islamic

State in Iraq and Al Shâm, the use of torture to elicit intelligence is once again under discussion in some quarters. In the next two years, Congress and the administration have an opportunity to commit the United States to its highest standards and set a course for the most effective way to protect against terrorist threats. Action is needed because warped interpretation of domestic and international law allowed torture

and abuse of detainees in Guantanamo Bay and abroad. If the United States is to live up to its image as a nation that values human rights while continuing to protect itself from terrorist threats, the government must clarify, strengthen, and expand measures to prohibit torture and cruel, inhuman and degrading treatment under U.S. law.



American ideals. Universal values.

WHERE TO FIND US

75 Broad Street, 31st Floor,
New York, NY 10004

Tel: 212.845.5200
Fax: 212.845.5299

humanrightsfirst.org

805 15th Street, N.W., #900
Washington, DC 20005

Tel: 202.547.5692
Fax: 202.543.5999

1303 San Jacinto Street, 9th Floor
at South Texas College of Law, Houston, TX 77002

Tel: 713.955.1360
Fax: 713.955.1359