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The organizations submitting this report are U.S. based and deal daily with torture and torture survivors. All undertake research on these issues and offer trainings to clinical and legal professionals in the field. ISPT and The Kovler Center provide clinical evaluations and direct treatment to refugee torture survivors.

The issue we address here in three points is the United States' incomplete compliance with its obligations under the 1984 U.N. Convention Against Torture over the last four years. With each of the points, we suggest practical solutions. At issue are 1) a failure to consult with U.S. torture treatment centers on the definition, methods, and effects of torture; 2) a failure to fully implement an existing statute defining torture and enabling its prosecution; and 3) a failure to allow external supervision of military and other secret prisons when scientific experimentation has shown that torture often occurs in detention situations without external supervision. To take the points in order, with suggested solutions:

1. At no point in the U.S. government's public arguments or private deliberations about the definition of torture, or prohibited torture and interrogation methods, or the effects of these methods, was there consultation with U.S. torture treatment centers, including federally funded ones. This was true of the Administration just past, and continues to be true today. This fails to take advantage and account of more than twenty years' clinical practice, research, and writing in the private sector.

Torture treatment centers are well known to the federal government, because it funds many of them through the U.S. Office of Refugee Resettlement. In addition, the federal government also audits cases yearly for compliance with the U.N. definition of torture. Finally, in political asylum appeals in federal immigration courts, methods and effects of torture have been adjudicated for years.

This gap between what federal officials claim to know about torture, and what torture treatment clinicians have long known, could easily have been traversed by official contact with the (U.S.) National Consortium of Torture Programs (NCTTP) through its present or past presidents with tenure over the past four years.¹ Nowhere will the minutes of the NCTTP show such official consultation, though the NCTTP yearly discusses funding with Congress.

Failure of the U.S. government to take seriously known long-standing professional information to decide what constitutes torture undercuts any credibility the U.S. may wish to claim for opposing torture by supporting the torture treatment centers or the U.N. Voluntary Fund for Victims of Torture.

2. In public discussions of the definition of torture, methods of torture, and effects of torture, neither the past nor the present Administration has referred to the enabling legislation of the Torture Victim Relief Act (TVRA), the basis for funding U.S. torture treatment centers.² The TVRA was first passed by Congress in 1998 and signed into law by the first President Bush. It has been renewed periodically since then (most recently in 2010). It uses the U.N. definition of torture and describes 15 methods of torture, including isolation, deprivation, exhaustion, and suffocation (which would include “waterboarding”). Some of these actions have been legitimized as part of the U.S. Army Field Manual for Interrogation. The absence of reference to this Act and Congress’s assessment of what constitutes torture can only be explained as deliberate, and thus in support of some torture rather than opposition to it, despite the funding of torture treatment centers.

The U.S. could establish an independent Congressional commission to look into this oversight and bring current practices into compliance with a known source of relevant information.

3. The U.S. has failed to properly supervise its military prisons to prevent torture. The confidential report by the International Committee of the Red Cross, based on restricted access to detainees, was reportedly rejected by the Pentagon. Additionally, a United Nations envoy canceled their visit to Guantanamo based on the restrictions being placed on their access to detainees. These inspections are designed to protect the rights of prisoners and prevent torture.

The Stanford Prison Experiment of 1971 is famous among U.S. psychologists, and is no doubt known to the psychologists in the U.S. military and intelligence services. The experiment showed that prison guards, if not monitored from outside their prison system

¹ Current president: Abdallah Boumediene, Operations Manager, ACCESS Psychosocial Rehabilitation Center, Dearborn, Michigan. Immediate past president: Mary Fabri, Senior Director, Torture Treatment Services and International Training, Heartland Alliance Marjorie Kovler Center, Chicago, Illinois.

² The Torture Victim Relief Act of 1998. Public Law 105-320. U.S. Code Sec 2340A. 1998. Washington, D.C.: The Congressional Register, 22 March 2004:13308.

and if under stress, will torture—escalating gradually, with the most brutal setting the standard. It is not enough for supervision to come from the prison administration, such as a warden.³ This experiment and the research it generated demonstrate that supervision of military prisons cannot come from military supervisors, who may exercise command influence over their subordinates. Military and intelligence psychologists can be presumed to know this famous clinical experiment, and the relevant commanders knew or should have known that torture would occur in these settings. Thus, a policy of deliberate torture can be presumed. Much of the torture and abuse committed at Abu Ghraib and elsewhere could not have been for interrogation purposes, but rather for purposes of terrorizing the detainees, their families and their communities.

Such a practice, in the face of knowledge of conditions inducing torture, contributes to impunity for torture where low-ranking guards may be found guilty of torture, but there would be no orders to torture, so ranking officers or civilians would be unlikely to be punished. To maintain such conditions, with still no completely free prison access by international agencies, is to fail to comply with the obligations of the U.N. Convention Against Torture.

The solution is for the U.S. to comply with international law giving free access to military prisons by the ICRC and the U.N., arranged by the relevant U.N. and U.S. agencies.

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³ There are many clinical references to the experiment. See a recent book by the psychologist who designed it: Professor Philip Zimbardo, “The Lucifer Effect”, Random House, New York, 2007.