

**Inter-American Commission on Human Rights
Thematic Hearing on the
Human Rights Situation of People Affected by the United States’
Rendition, Detention, and Interrogation Program**

156th Ordinary Period of Sessions

October 23, 2015

Introduction

The American Civil Liberties Union (ACLU) and the Global Justice Clinic at New York University School of Law (Global Justice Clinic) (collectively, the Petitioners), thank the Inter-American Commission for Human Rights for granting Petitioners’ request for a hearing to address the **Human Rights Situation of People Affected by the United States’ Rendition, Detention, and Interrogation Program** (CIA’s torture program). In December 2014, the Senate Select Committee on Intelligence released its report on the Central Intelligence Agency’s Rendition, Detention and Interrogation Program (SSCI Report). This report confirmed what many already knew: following the September 11 terrorist attacks, the CIA secretly detained and tortured individuals it deemed to be suspect, violating international human rights standards, domestic law and American values; values that are admired and emulated across the globe.¹ Between 2002 and 2007, in collaboration with an expansive global network of at least fifty-four countries, the CIA forcibly disappeared, detained, interrogated, and tortured dozens of men.²

While in CIA custody, detainees were subject to interrogations that were “brutal and far worse than the CIA represented to policymakers and others.”³ In futile attempts to coerce individuals to supply information, U.S. agents utilized slaps and “wallings” (slamming detainees against a wall), in combination with sleep deprivation and nudity.⁴ Sometimes detainees were waterboarded. Internal CIA documents suggest the technique evolved into a “series of near

¹ Senator Dianne Feinstein, Foreword to SENATE SELECT COMMITTEE ON INTELLIGENCE, 113TH CONG., COMMITTEE STUDY OF THE CENTRAL INTELLIGENCE AGENCY’S DETENTION AND INTERROGATION PROGRAM 2 (Comm. Print 2014) (Declassification Revisions December 3, 2014).

² The C.I.A. detained individuals in its RDI Program from 2002 to 2008. The Agency’s use of its most coercive interrogation methods (so-called “enhanced interrogation techniques”) was ended in 2007. *See generally* SENATE SELECT COMMITTEE ON INTELLIGENCE, 113TH CONG., COMMITTEE STUDY OF THE CENTRAL INTELLIGENCE AGENCY’S DETENTION AND INTERROGATION PROGRAM 166, 168 (Comm. Print 2014) (Declassification Revisions December 3, 2014) [hereinafter SSCI Report]; AMRIT SINGH, OPEN SOCIETY JUSTICE INITIATIVE GLOBALIZING TORTURE CIA SECRET DETENTION AND EXTRAORDINARY RENDITION 61-118 (David Berry ed., Open Society Foundations 2013) [hereinafter *Globalizing Torture*].

³ *See* SSCI Report, *supra* note 2, at 3.

⁴ *Id.*

drownings.”⁵ At least five detainees were subjected to “rectal feedings” or “rectal hydration.”⁶ These interrogation techniques amounted to torture or to cruel, inhuman or degrading treatment.⁷

Though the SSCI Report shed light on the CIA’s torture program, those responsible, the human rights violations perpetrated, and the torture and cruel, inhuman, and degrading treatment of at least 119 victims and survivors of the program, there has been no accountability in the United States for these violations, and no remedies and reparations for the victims and survivors. Moreover, the report fails to capture the full scope of the CIA torture program’s impact, as it excludes individuals who the CIA did not detain, but rendered instead to foreign governments for detention and interrogation, often under torture.⁸ It also excludes the period of time detainees spent in proxy detention at the behest of the United States. The actual number of detainees held pursuant to the CIA’s torture program is therefore likely to be significantly higher, as is the length of detainee detention.⁹

In contrast to this U.S. impunity, many States and government officials that participated in the CIA’s torture program have been held accountable by administrative tribunals, the courts, and regional human rights mechanisms. For example, in Canada, following a three year-long public inquiry, the government acknowledged its role in the extraordinary rendition by the United States of a Canadian citizen, Maher Arar, awarded him compensation, and issued a public apology for its participation. This year, Canada also initiated a prosecution of Mr. Arar’s torturer. The European Court of Human Rights has also held States accountable for their collusion in the CIA’s torture program. Complicit States, including Macedonia and Poland have been compelled to provide reparations to survivors, Khaled El-Masri, Abd Al Rahim Hussayn Muhammad Al-Nashiri, and Zayn Al-Abidin Muhammad Husayn. In its rulings the Court recognized the CIA’s torture program and the United States’ central role in these human rights violations, most recently in *Al-Nashiri v. Poland*.¹⁰ In *Al-Nashiri*, after establishing beyond reasonable doubt the existence of the CIA detention facilities on European soil, the European Court stated that Poland “enabled the U.S. authorities to subject the applicant to torture and ill-treatment on its territory and to transfer the applicant from its territory despite the existence of a real risk that he would be subjected to treatment contrary to Article 3 [prohibition on torture and inhumane, or degrading treatment or punishment].”¹¹

Meanwhile in the United States, recognition of the CIA’s torture program has not led to remedy, though it has created some transparency with respect to the program’s creation and operation and the torture, cruel, inhuman and degrading treatment suffered by detainees. This is contrary to its legal and moral obligations to provide reparation to victims and survivors of forced disappearance, torture and ill-treatment, and secret detention. Part II of the submission includes the witness statements presented at the hearing on Human Rights Situation of People Affected by the United States’ Rendition, Detention, and Interrogation Program. Part III of the

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.* at 101.

⁸ *Id.* at 9 n.5.

⁹ See, e.g., *Globalizing Torture*, *supra* note 2, at 29-30.

¹⁰ See, e.g., *Al Nashiri v. Poland*, Eur. Ct. H.R. 404 (2015) (Judgment) (Fourth Section) available at <http://hudoc.echr.coe.int/eng?i=001-146044#%7B%22itemid%22:%5B%22001-146044%22%5D%7D>.

¹¹ *Al-Nashiri v. Poland*. Eur. Ct. H.R. 6 (2015).

submission examines reparations efforts within and outside of the extraordinary rendition context, demonstrating the different avenues of redress available to the United States to fulfill its obligations. The Annex provides a supplemental submission from Advocates for U.S. Torture Prosecutions on Denial of Justice: The United States' Failure to Prosecute Senior Officials for Torture.

As the overall submission will show, the United States has a moral and legal obligation to provide reparations to survivors of the CIA's torture program, and has established strong precedents for providing reparations to survivors of unlawful detention and torture. Moreover, it continues to support impunity by not providing accountability for the harms it caused, or reparations to victims, whereas other states that colluded with the United States have. Despite these precedents, the United States refuses to provide redress to survivors of its cruel and unjustifiable secret detention program. The Petitioners commend the Commission for its attention to this critical human rights issue, and echo the Commission's call on the United States to carry out a full investigation into the secret detention program; to prosecute and punish those responsible; and—in keeping with the Commission's influential, longstanding tradition—to recommend that the State provide integral reparations¹² to victims, including restitution, compensation, rehabilitation, satisfaction, and measures of non-repetition.¹³

¹² See, e.g., Velasquez Rodriguez, Inter-Am. Ct. H.R. (ser. C) No. 4 ¶ 150 (stating that “the phenomenon of disappearances is a complex form of human rights violation that must be understood and confronted in an integral fashion”); Press Release, Inter-American Commission on Human Rights, IACHR Calls on the United States to Investigate and Punish Acts of Torture Established in the Senate Intelligence Committee Report (Dec. 12, 2014), http://www.oas.org/en/iachr/media_center/PReleases/2014/152.asp (calling for the provision of integral reparation)..

¹³ See Press Release, Inter-American Commission on Human Rights, IACHR Calls on the United States to Investigate and Punish Acts of Torture Established in the Senate Intelligence Committee Report (Dec. 12, 2014), http://www.oas.org/en/iachr/media_center/PReleases/2014/152.asp.